

Pamphlet 1

MISSISSIPPI

ADVANCE SHEETS

2012 Legislative Session
General Laws



LexisNexis

MISSISSIPPI GENERAL LAWS ADVANCE SHEETS 2012

Regular Session

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PREFACE

Contents; publication schedule.

The 2012 Advance Sheets of the General Laws of Mississippi are part of the supplementation service for your official *Mississippi Code of 1972 Annotated*, and consist of a series of pamphlets issued during the 2012 Legislative Session of the State of Mississippi. The purpose of this service is to provide you with the most timely legislative information possible, and to make the most recent changes to the *Mississippi Code* available to you in an easy-to-use format.

The Advance Sheets contain all public acts enacted by the Legislature and approved by the Governor during the 2012 Regular Session. This pamphlet, the first in the series, contains the first 99 general bills signed by the Governor. The second and third pamphlets will contain the remainder of the acts from the 2012 Regular Session. Appropriation bills and private and local bills are not included in the Advance Sheets.

The acts are arranged in order by House Bill and Senate Bill number, with House Bills appearing first. The final pamphlet will contain a cumulative table of House Bills and Senate Bills and their corresponding chapter numbers.

Summary of acts; tables; index.

To assist you in locating pertinent legislation, the Advance Sheets include several tables and other features prepared by the editorial staff of the publisher. Included in this Pamphlet 1 are the following:

- a **Summary of Acts** summarizing the subject of each act in the pamphlet;
- **Cumulative Legislative Summaries** giving brief descriptions of important legislation;
- a **Cumulative Table of Code Sections Affected** showing the impact of legislation on sections of the *Code*;
- a comprehensive, cumulative **Index**, with headings based on the headings that are used in the general index to the *Code*.

In addition, the following tables will be added to the final pamphlet:

- a **Cumulative Allocation of Acts Table** showing each general law and its effect on the section of the *Code*;
- **Cumulative Tables of House Bills and Senate Bills** and their corresponding chapter numbers.

As an added research feature, we have included an individual **Act Summary** preceding each General Law. This summary contains (1) a description of the act, (2) the legislative history of the act, (3) background information, such as the effective date and disposition of the act, (4) the House and Senate committees to which the act was referred, (5) the principal author of the act, and (6) a list of the *Code* sections affected by the act. To better utilize these act summaries, you should be familiar with the following abbreviations and their meanings:

PREFACE

- Under the heading “Background Information”
“VRA” = Voting Rights Act
“App. Req.” = Approval Required
- Under the heading “Code Sections”
“A” = Amended
“R” = Reenacted
“RA” = Reenacted and Amended
“RP” = Repealed
“BF” = Brought Forward

Treatment of acts in the Advance Sheets.

The most recent General Laws are printed herein exactly as passed. No corrections or other editorial changes have been made.

The Legislature has indicated changes to *Code* materials by using the following symbols:

- Single underscoring of material appearing in an act indicates text that will appear as newly added language in the *Mississippi Code*. For an entirely new section, the section number will be underscored. Double underscoring in the text of an act reflects an amendment to the language of the original bill.
- Triple asterisks (***) appearing in an act indicate the deletion of text from a section of the *Mississippi Code*. Where asterisks appear on a line by themselves, the deletion of one or more paragraphs is indicated.

Treatment of acts in *Mississippi Code of 1972 Annotated*.

It is IMPORTANT to note that the treatment of some legislation, when it later appears in the *Mississippi Code of 1972 Annotated*, may be subject to change for various reasons. For example:

- Certain sections of the acts printed in this Advance Sheet were not assigned *Code* section numbers; in these instances, the publisher’s staff of legal analysts will suggest *Code* section designations, and these recommendations will be sent to the Joint Legislative Committee on Compilation, Revision and Publication of Legislation for approval;
- *Code* section number assignments might be changed, pursuant to the authority of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation, because of conflicts with previously existing section numbers or because of other refinements made during the editorial process; or
- Text of sections might be changed, also pursuant to the authority of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation, because of conflicts with other approved legislation from the 2012 Legislative Session.

Any such changes will be reflected in the 2012 *Mississippi Code of 1972 Annotated* supplements and replacement volumes.

PREFACE

Information, suggestions, comments, and questions.

Visit the LexisNexis website at <http://www.lexisnexis.com> to find an online bookstore, technical support, customer service, and other company information.

Suggestions, comments, or questions about the *Mississippi Code* or the Advance Sheets are always welcome. You may contact us by calling us toll-free at (800) 833-9844, faxing us toll-free at (800) 643-1280, e-mailing us at customer.support@bender.com, or writing to *Mississippi Code* Editor, Matthew Bender & Co., Inc., 701 E Water St., Charlottesville, Virginia 22902-5389.

June 2012

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SUMMARY OF ACTS

Summary of Acts

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LEGISLATIVE SUMMARIES

of important legislation enacted during

2012 Legislative Session of the State of Mississippi

ABORTION

Act requires that physicians performing abortions in abortion facilities be board certified in obstetrics and gynecology and have admitting privileges at a local hospital. **HB 1390**

AIR POLLUTION

Act removes the maximum annual fee limitation for air operating permits under Title V of the Federal Clean Air Act. **SB 2812**

AIRPORTS AND AIRCRAFT

Act creates a lien on aircraft landing at an airport of an airport authority for the full amount of landing fees or other rates and charges. **SB 2336**

Act extends the repealer regarding an income tax credit for use of airport and port facilities. **SB 2613**

ALCOHOLIC BEVERAGES

Act prohibits beer or light wine permittees to accept certain coupons as full or partial payment. **HB 1250**

Act revises the alcoholic content of beer and provides for regulation of light wine along with beer. **SB 2878**

ANATOMICAL GIFTS

Act enacts the revised Mississippi uniform anatomical gift act (UAGA). **SB 2685**

BUILDING CODES

Act provides that exceptions to local building code enforcement do not apply to flood plain management ordinances or regulations. **HB 773**

Act requires the building code council to submit a report with recommendations for a statewide mandatory building code. **SB 2651**

LEGISLATIVE SUMMARIES

BUSINESS ENTITIES

Act enacts the Mississippi registered agents act. **HB 1162**

BUSINESS IMPROVEMENT DISTRICTS

Act extends the reauthorization period and the number of participating property owners necessary to adopt a reauthorization. **HB 968**

CHANCERY COURTS

Act provides for judicial salaries and deposits into judicial system operation fund and other funds to provide funding for judicial salaries. **HB 484**

CIRCUIT COURT

Act sets forth the clerk's fee for docketing and filing of a notice of renewal of judgment in circuit courts. **HB 361**

Act provides for judicial salaries and deposits into judicial system operation fund and other funds to provide funding for judicial salaries. **HB 484**

COLLEGES AND UNIVERSITIES

Act provides that repayment of awards by critical needs teacher scholarship program participants are to be deposited in the consolidated revolving loan fund. **HB 860**

Act authorizes the department of finance and administration to sell and convey state-owned property under the control of the University of Southern Mississippi Gulf Coast. **HB 866**

Act revises the scope of authority for the commission on college accreditation. **HB 1086**

Act allows for waiver of out-of-state tuition according to the discretion of the board of trustees of state institutions of higher learning. **HB 1095**

CONCEALED WEAPONS LICENSES

Act revises the conditions for entry into reciprocal agreements with other states. **HB 695**

CONTRACTORS

Act provides that a subcontractor providing work and materials is authorized to receive a copy of the general contractor's surety bond. **HB 1301**

LEGISLATIVE SUMMARIES

CORRECTIONS DEPARTMENT

Act clarifies that a person committed to an penal institution is committed to the department of corrections, not the insitution. **HB 369**

Act creates the community service revolving fund, sets out which funds receive deposits and extends the repealer date. **HB 422**

Act requires a PEER committee to submit inmate cost per day report and to develop a current cost-based model, prior to entering into private correctional services contracts. **HB 440**

Act extends the repealer regarding the Bolivar county regional facility alcohol and drug treatment program. **HB 454**

Act increases the threshold amount for contracts requiring approval by the public procurement review board. **HB 525**

Act requires the department to maintain an offender's cover sheet with requests for offender records, also known as "pen-pack." **SB 2486**

COUNTIES

Act authorizes a county board of supervisors to enter into development agreements regarding master planned communities. **HB 263**

Act revises the procedures regarding cleaning of private property determined to be a menace to public health and safety, providing for a notice of hearing and imposing a penalty on the owner. **HB 545**

Act revises the procedures for changing the boundaries of supervisor districts. **HB 585**

Act prohibits certain conflicts of interest in the process for selecting a bank as a depository for county funds. **HB 966**

Act permits county or municipality to enter into agreements with economic development projects for the provision of certain utilities. **HB 1255**

Act repeals the preapproval requirement for counties or municipalities desiring to acquire or create a geographic information system. **HB 1407**

Act revises the procedures for calling an emergency meeting of the board of supervisors. **SB 2884**

LEGISLATIVE SUMMARIES

COURT OF APPEALS

Act provides for judicial salaries and deposits into judicial system operation fund and other funds to provide funding for judicial salaries. **HB 484**

DENTISTS

Act removes the repealer on provision relating to contracts between health care entities and dentists relating to dental care benefits. **SB 2324**

DRUGS AND CONTROLLED SUBSTANCES

Act revises the prohibited acts constituting unlawful obtaining or possession of controlled substances or legend drugs. **HB 1355**

ELECTRONIC TRANSACTIONS

Act revises the definition of “written” for purposes of the uniform electronic transactions act. **SB 2855**

FAIRS

Act authorizes the Mississippi fair commission to contract with entities for use of the state fairgrounds. **SB 2912**

FIDUCIARIES

Act enacts the principal and income act of 2013 to replace the revised uniform principal and income law. **HB 732**

Act enacts the uniform prudent management of institutional funds act. **HB 1104**

FINANCE AND ADMINISTRATION DEPARTMENT

Act authorizes the department to sell and convey state-owned property under the control of the University of Southern Mississippi Gulf Coast. **HB 866**

Act authorizes the department to donate or convey property to Meridian community college, on behalf of department of public safety. **HB 895**

Act provides that the surplus lines premium tax does not apply to property risk written by the department on behalf of the state. **HB 1348**

FIREARMS AND OTHER WEAPONS

Act repeals the requirement that dealers keep records of weapons sold. **HB 455**

LEGISLATIVE SUMMARIES

Act revises the conditions for entry into reciprocal agreements with other states for concealed weapons licenses. **HB 695**

FIRES AND FIRE PREVENTION

Act authorizes the appointment of a state chief assistant deputy fire marshal. **HB 726**

Act authorizes mutual aid compacts for fire service agencies. **HB 1418**

FISH AND WILDLIFE

Act revises the restrictions on commercial harvesting of oysters, by adding an exception for certain reefs approved by the commission. **HB 368**

Act extends the repeal date for certain provisions regarding the regulatory authority of the commission and department of wildlife, fisheries and parks. **HB 756**

Act revises the state assent to certain federal provisions, and provides that revenue from license sales will be under the exclusive control of the fish and wildlife agency. **HB 848**

Act clarifies the provisions regarding hunting on public roads while in possession of a loaded weapon and clarifies the definition of "unloaded weapon." **HB 1326**

Act allows the commission on marine resources to open shrimping areas in case of a disaster adversely affecting the shrimp fishery. **SB 2295**

FLOOD CONTROL

Act provides that exceptions to local building code enforcement do not apply to flood plain management ordinances or regulations. **HB 773**

FREE PORT WAREHOUSES

Act extends the definition of free port warehouse to include facilities for the temporary storage and handling of property pending transit out of state, for the purpose of providing eligibility for a property tax exemption of such property. **SB 2342**

FUNERAL SERVICES

Act, in relation to preneed cemetery and funeral contracts, defines and imposes certain requirements on substitute providers, restricts loan recipients from trust funds, and provides that preneed contracts are portable. **SB 2579**

LEGISLATIVE SUMMARIES

HARBORS AND PORTS

Act extends the repealer regarding an income tax credit for use of airport and port facilities. **SB 2613**

HEALTH INSURANCE

Act to be known as children's health insurance program act, transfers administration of program to division of Medicaid and establishes eligibility standards for receipt of benefits. **HB 316**

Act provides for the frequency of examination of insurers, including health maintenance organizations. **HB 434**

Act extends the repealer on the requirement for state contributions toward the cost of the state employees health insurance plan. **HB 703**

Act allows the commissioner of insurance to appoint a designee as a member of the state and school employees health insurance management board. **HB 768**

Act removes the requirement that the state and school employees health insurance management board employ a deputy state insurance administrator. **HB 997**

Act removes the repealer on the provision relating to contracts between health care entities and dentists relating to dental care benefits. **SB 2324**

Act enlarges the board of directors of the comprehensive health insurance risk pool association by two additional members. **SB 2586**

INCOME TAXES

Act extends the repealer regarding an income tax credit for use of airport and port facilities. **SB 2613**

Act extends the repealer regarding an income tax credit for upholstered furniture manufacturing facilities. **SB 2656**

INSURANCE ADJUSTERS

Act provides the definition of "automated claims adjudication system," clarifies the definition of "adjuster," and prohibits denial of reciprocal license on basis of non-citizenship. **SB 2618**

INSURANCE COMPANIES AND PRODUCERS

Act provides for the frequency of examinations of insurers. **HB 434**

LEGISLATIVE SUMMARIES

INSURANCE DEPARTMENT

Act extends the repeal date for the comprehensive hurricane damage mitigation program within the department of insurance. **SB 2578**

JUDGES AND JUSTICES

Act provides for judicial salaries and deposits into judicial system operation fund and other funds to provide funding for judicial salaries. **HB 484**

JUVENILE PROCEEDINGS

Act establishes the Tony Gobar individualized assessment and comprehensive community intervention initiative (IACCII) program for certain youth. **HB 710**

LEGISLATURE

Act requires a fiscal note to be published on legislative website for bills and concurrent resolutions involving spending or effect on state revenue. **SB 2561**

LIMITED LIABILITY COMPANIES

Act extends the repealer on the provision regarding fees. **HB 416; SB 2858**

LIVESTOCK

Act extends the repealer on the provision setting out the number of livestock shows or sales to be held free of charge at livestock facilities. **HB 411**

MISSISSIPPI BURN FOUNDATION

Act authorizes a county property tax levy to support construction and operation of the Burn Center Lodge. **HB 544**

MISSISSIPPI DEVELOPMENT AUTHORITY

Act creates the emerging crops fund. **HB 633**

MUNICIPALITIES

Act authorizes a municipality to lease property less than 1500 square feet, but requires two appraisals on such property. **HB 987**

Act permits county or municipality to enter into agreements with economic development projects for the provision of certain utilities. **HB 1255**

LEGISLATIVE SUMMARIES

Act repeals the preapproval requirement for counties or municipalities desiring to acquire or create a geographic information system. **HB 1407**

NURSING HOME ADMINISTRATORS

Act extends the repealer date on licensure requirements. **SB 2715**

OIL AND GAS

Act provides that liquefied petroleum gas permit applicants be competent and of good character in order to obtain a permit. **SB 2399**

PHARMACISTS AND PHARMACY

Act provides that the orthotist/prosthetist certification law does not restrict certain practices by licensed pharmacists. **HB 1151**

PHYSICAL THERAPISTS

Act removes the repealer for certain provisions in the physical therapy practice law. **HB 417**

PHYSICIANS AND SURGEONS

Act requires that physicians performing abortions in abortion facilities be board certified in obstetrics and gynecology and have admitting privileges at a local hospital. **HB 1390**

PREPAID LEGAL SERVICES PLANS

Act provides for the frequency of examination of insurers, including prepaid legal services plans. **HB 434**

PRINCIPAL AND INCOME ACT OF 2013

Act is enacted to replace the revised uniform principal and income law. **HB 732**

PRISONS AND PRISONERS

Act clarifies that a person committed to an penal institution is committed to the department of corrections, not the insitution. **HB 369**

Act requires a PEER committee to submit inmate cost per day report and to develop a current cost-based model, prior to entering into private correctional services contracts. **HB 440**

Act extends the repealer regarding the Bolivar county regional facility alcohol and drug treatment program. **HB 454**

Act provides for the reenactment and amendment of the prison overcrowding emergency powers act. **SB 2187**

LEGISLATIVE SUMMARIES

Act clarifies the prohibition against possessing contraband in correctional facilities, extending the provisions to local facilities. **SB 2263**

PROPERTY AND CASUALTY INSURANCE

Act removes the repealer on the property and casualty actuarial opinion act. **SB 2577**

PROPERTY TAXES

Act authorizes a county levy, where proceeds are to be provided to the Mississippi Burn Foundation to support construction and operation of the Burn Center Lodge. **HB 544**

Act extends the definition of free port warehouse to include facilities for the temporary storage and handling of property pending transit out of state, for the purpose of providing eligibility for a property tax exemption of such property. **SB 2342**

Act revises the procedures for taxing entities to hold public hearings on budgets and tax levies, and to provide notice of such hearings. **SB 2886**

PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS

Act enacts the new uniform act and repeals the former act. **HB 1104**

PSYCHOLOGISTS

Act removes the repealer on provisions specifying education and supervised experience requirements for psychologist licensure. **HB 412**

PUBLIC LANDS

Act allows for the cost of cleanup and removal of debris from destroyed buildings and improvements on tax-forfeited lands to be factored into the sales price of the land. **HB 1117**

PUBLIC OFFICERS AND EMPLOYEES

Act extends the repealer on the requirement for state contributions toward the cost of the state employees health insurance plan. **HB 703**

RAILROADS

Act expands the definition of “railroad” to include regional railroad authorities. **SB 2829**

REGISTERED AGENTS

Act enacts the Mississippi registered agents act. **HB 1162**

LEGISLATIVE SUMMARIES

SCHOOLS AND EDUCATION

Act provides for school boards to allow course credit for high school student national guard members attending basic training camp during the summer prior to their senior year. **HB 784**

Act extends the repeal date on the requirement for school districts to submit cost reduction plans to the department of education. **HB 909**

Act repeals the provision establishing standards required of agricultural high schools. **HB 948**

SECURITIES

Act revises the definition of “security account” relating to transfer-on-death securities registration, to include investment management and custody accounts. **HB 865**

SENTENCING

Act provides for the extension of the repeal date for the state parole board. **SB 2195**

Act provides for the extension of the repeal date for state offenders serving sentences in county jails. **SB 2196**

Act provides for the extension of the repeal date for electronic home detention and intensive supervision programs. **SB 2197**

STATE FIRE MARSHAL

Act authorizes the appointment of a state chief assistant deputy fire marshal. **HB 726**

SUPREME COURT

Act provides for judicial salaries and deposits into judicial system operation fund and other funds to provide funding for judicial salaries. **HB 484**

SURPLUS LINES INSURANCE

Act provides that the surplus lines premium tax does not apply to property risk written by the department of finance and administration on behalf of the state. **HB 1348**

Act provides for the percentage of the nonadmitted policy fee. **SB 2626**

Act requires producers to execute a form indicating why insurance was not placed in the admitted market. **SB 2628**

LEGISLATIVE SUMMARIES

TEACHERS

Act provides that repayment of awards by critical needs teacher scholarship program participants are to be deposited in the consolidated revolving loan fund. **HB 860**

Act creates the office of educator misconduct evaluations. **HB 1144**

TRANSPORTATION

Act revises the membership of the public transit task force. **HB 575**

UNEMPLOYMENT COMPENSATION

Act provides an exemption for direct sellers, and excludes newspaper delivery or distribution from the definition of employment. **HB 451**

VETERANS

Act authorizes the state veterans affairs board to establish and operate veterans cemeteries. **HB 264**

WATER SUPPLY AND WATERWORKS

Act authorizes the city of Hattiesburg to enter into contracts for treatment, transportation or disposal of wastewater. **HB 1529**

CUMULATIVE TABLE OF CODE SECTIONS AFFECTED

MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
1-3-61	Amended		sb2855	1	1
9-9-11	Amended		hb0484	8	1
9-21-45	Amended		hb0484	2	1
17-2-3	Amended		sb2651	1	1
17-2-7	Amended		hb0773	1	1
17-2-9	Amended		hb0773	2	1
19-3-1	Amended		hb0585	2	1
19-3-19	Amended		sb2884	1	1
19-5-10	Amended		hb0263	1	1
19-5-105	Amended		hb0545	1	1
21-17-1	Amended		hb0987	1	1
21-33-45	Amended		sb2886	2	1
21-43-113	Amended		hb0968	4	1
21-43-117	Amended		hb0968	1	1
21-43-119	Amended		hb0968	2	1
21-43-131	Amended		hb0968	3	1
23-15-285	Amended		hb0585	1	1
25-3-35	Amended		hb0484	1	1
25-7-3	Amended		hb0484	3	1
25-7-9	Amended		hb0484	4	1
25-7-13	Amended		hb0361	1	1
25-7-13	Amended		hb0484	5	1
25-9-101	Amended		hb0484	7	1
25-9-115	Added		hb0484	6	1
25-15-15	Amended		hb0703	1	1
25-15-303	Amended		hb0768	1	1
25-15-303	Amended		hb0997	1	1
25-58-1	Amended		hb1407	1	1
25-58-21	Reenacted		hb1407	2	1
27-7-22.7	Reenacted		sb2613	1	1
27-7-22.9	Reenacted		sb2613	2	1
27-7-22.25	Reenacted		sb2613	4	1
27-7-22.26	Reenacted		sb2613	5	1
27-7-22.36	Amended		sb2656	1	1
27-31-51	Amended		sb2342	1	1
27-31-53	Amended		sb2342	2	1
27-39-203	Amended		sb2886	1	1
27-39-205	Repealed		sb2886	4	1
27-39-317	Amended		sb2886	3	1
27-39-332	Amended		hb0544	1	1
27-71-509	Amended		sb2878	12	1
27-105-305	Amended		hb0966	1	1
29-1-35	Amended		hb1117	1	1
29-1-57	Amended		hb1117	2	1
33-15-17	Amended		hb1418	2	1
33-15-19	Amended		hb1418	1	1
35-1-41	Amended		hb0264	1	1
37-3-2	Amended		hb1144	1	1
37-27-19	Repealed		hb0948	1	1
37-61-8	Amended		hb0909	1	1
37-101-241	Amended		hb1086	1	1

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MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
37-103-25	Amended		hb1095	1	1
37-143-19	Amended		hb0860	3	1
37-159-3	Amended		hb0860	1	1
37-159-17	Amended		hb0860	2	1
41-29-144	Amended		hb1355	1	1
41-39-101	Reenacted		sb2685	1	1
41-39-103	Reenacted		sb2685	2	1
41-39-105	Reenacted		sb2685	3	1
41-39-107	Reenacted		sb2685	4	1
41-39-109	Reenacted		sb2685	5	1
41-39-111	Reenacted		sb2685	6	1
41-39-113	Reenacted		sb2685	7	1
41-39-115	Reenacted		sb2685	8	1
41-39-117	Reenacted		sb2685	9	1
41-39-119	Reenacted		sb2685	10	1
41-39-121	Reenacted		sb2685	11	1
41-39-123	Reenacted		sb2685	12	1
41-39-125	Reenacted		sb2685	13	1
41-39-127	Reenacted		sb2685	14	1
41-39-129	Reenacted		sb2685	15	1
41-39-131	Reenacted		sb2685	16	1
41-39-133	Reenacted		sb2685	17	1
41-39-135	Reenacted		sb2685	18	1
41-39-137	Reenacted		sb2685	19	1
41-39-139	Reenacted		sb2685	20	1
41-39-141	Reenacted		sb2685	21	1
41-39-143	Reenacted		sb2685	22	1
41-39-145	Reenacted		sb2685	23	1
41-39-147	Reenacted		sb2685	24	1
41-39-149	Amended		sb2685	25	1
41-75-1	Amended		hb1390	1	1
41-86-1	Amended		hb0316	1	1
41-86-3	Repealed		hb0316	8	1
41-86-5	Amended		hb0316	2	1
41-86-7	Amended		hb0316	3	1
41-86-9	Amended		hb0316	4	1
41-86-11	Amended		hb0316	5	1
41-86-13	Amended		hb0316	6	1
41-86-15	Amended		hb0316	7	1
41-86-17	Repealed		hb0316	8	1
41-86-19	Repealed		hb0316	8	1
41-86-21	Repealed		hb0316	8	1
43-21-803	Amended		hb0710	1	1
45-9-101	Amended		hb0695	1	1
45-11-1	Amended		hb0726	1	1
47-5-10	Amended		sb2486	1	1
47-5-105	Amended		hb0525	1	1
47-5-110	Amended		hb0369	1	1
47-5-193	Amended		sb2263	1	1
47-5-701	Reenacted		sb2187	1	1
47-5-703	Reenacted		sb2187	2	1
47-5-705	Reenacted		sb2187	3	1
47-5-707	Reenacted		sb2187	4	1

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MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
47-5-709	Reenacted		sb2187	5	1
47-5-711	Reenacted		sb2187	6	1
47-5-713	Reenacted		sb2187	7	1
47-5-715	Reenacted		sb2187	8	1
47-5-717	Reenacted		sb2187	9	1
47-5-719	Reenacted		sb2187	10	1
47-5-721	Reenacted		sb2187	11	1
47-5-723	Reenacted		sb2187	12	1
47-5-725	Reenacted		sb2187	13	1
47-5-727	Reenacted		sb2187	14	1
47-5-729	Reenacted		sb2187	15	1
47-5-731	Reenacted		sb2187	16	1
47-5-901	Reenacted		sb2196	1	1
47-5-903	Reenacted		sb2196	2	1
47-5-905	Reenacted		sb2196	3	1
47-5-907	Reenacted		sb2196	4	1
47-5-909	Reenacted		sb2196	5	1
47-5-911	Reenacted		sb2196	6	1
47-5-940	Amended		hb0454	1	1
47-5-1001	Reenacted		sb2197	1	1
47-5-1003	Reenacted		sb2197	2	1
47-5-1005	Reenacted		sb2197	3	1
47-5-1007	Reenacted		sb2197	4	1
47-5-1009	Reenacted		sb2197	5	1
47-5-1011	Reenacted		sb2197	6	1
47-5-1013	Reenacted		sb2197	7	1
47-5-1014	Reenacted		sb2197	8	1
47-5-1015	Reenacted		sb2197	9	1
47-5-1211	Amended		hb0440	1	1
47-7-5	Amended		sb2195	1	1
47-7-49	Amended		hb0422	1	1
49-5-25	Amended		hb0848	1	1
49-5-27	Repealed		hb0848	2	1
49-7-58.3	Amended		hb0756	1	1
49-7-58.4	Amended		hb0756	2	1
49-11-3	Amended		hb0756	3	1
49-15-64.1	Amended		sb2295	1	1
49-15-64.3	Amended		sb2295	2	1
49-15-315	Amended		hb0368	1	1
49-17-30	Amended		sb2812	1	1
61-3-24	Added		sb2336	1	1
65-1-701	Amended		sb2829	1	1
67-1-5	Amended		sb2878	2	1
67-3-1	Amended		sb2878	3	1
67-3-3	Amended		sb2878	1	1
67-3-5	Amended		sb2878	4	1
67-3-7	Amended		sb2878	5	1
67-3-9	Amended		sb2878	6	1
67-3-13	Amended		sb2878	7	1
67-3-17	Amended		sb2878	8	1
67-3-28	Amended		sb2878	9	1
67-3-49	Amended		sb2878	10	1
67-3-53	Amended		sb2878	11	1

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MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
67-3-53	Amended		hb1250	1	1
69-2-13	Amended		hb0633	1	1
69-5-3	Amended		sb2912	1	1
69-5-114	Amended		hb0411	1	1
71-5-11	Amended		hb0451	1	1
73-17-11	Amended		sb2715	1	1
73-22-1	Amended		hb1151	2	1
73-22-3	Amended		hb1151	1	1
73-23-33	Amended		hb0417	1	1
73-23-35	Amended		hb0417	2	1
73-23-59	Amended		hb0417	3	1
73-31-13	Amended		hb0412	1	1
75-57-49	Amended		sb2399	1	1
75-57-105	Amended		sb2399	2	1
75-63-53	Amended		sb2579	1	1
75-63-59	Amended		sb2579	2	1
75-63-63	Amended		sb2579	3	1
75-63-68	Amended		sb2579	4	1
79-4-1.20	Amended		hb1162	20	1
79-4-1.22	Amended		hb1162	21	1
79-4-1.25	Amended		hb1162	22	1
79-4-1.26	Amended		hb1162	23	1
79-4-1.41	Amended		hb1162	24	1
79-4-2.02	Amended		hb1162	25	1
79-4-5.01	Repealed		hb1162	123	1
79-4-5.02	Repealed		hb1162	124	1
79-4-5.03	Repealed		hb1162	125	1
79-4-5.04	Repealed		hb1162	126	1
79-4-7.03	Amended		hb1162	26	1
79-4-7.04	Amended		hb1162	27	1
79-4-7.20	Amended		hb1162	28	1
79-4-7.48	Amended		hb1162	29	1
79-4-8.09	Amended		hb1162	30	1
79-4-10.05	Amended		hb1162	31	1
79-4-11.07	Amended		hb1162	32	1
79-4-13.30	Amended		hb1162	33	1
79-4-14.07	Amended		hb1162	34	1
79-4-14.08	Amended		hb1162	35	1
79-4-14.20	Amended		hb1162	36	1
79-4-14.21	Amended		hb1162	37	1
79-4-14.22	Amended		hb1162	38	1
79-4-14.23	Amended		hb1162	39	1
79-4-14.31	Amended		hb1162	40	1
79-4-15.03	Amended		hb1162	41	1
79-4-15.04	Amended		hb1162	42	1
79-4-15.07	Repealed		hb1162	127	1
79-4-15.08	Repealed		hb1162	128	1
79-4-15.09	Repealed		hb1162	129	1
79-4-15.10	Amended		hb1162	43	1
79-4-15.20	Amended		hb1162	44	1
79-4-15.30	Amended		hb1162	45	1
79-4-15.31	Amended		hb1162	46	1
79-4-15.32	Amended		hb1162	47	1

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MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
79-4-15.33	Amended		hb1162	48	1
79-4-16.04	Amended		hb1162	49	1
79-4-16.05	Amended		hb1162	50	1
79-4-16.22	Amended		hb1162	51	1
79-11-109	Amended		hb1162	52	1
79-11-115	Amended		hb1162	53	1
79-11-117	Amended		hb1162	54	1
79-11-131	Reenacted		hb1162	55	1
79-11-137	Amended		hb1162	56	1
79-11-163	Repealed		hb1162	130	1
79-11-165	Repealed		hb1162	131	1
79-11-167	Repealed		hb1162	132	1
79-11-169	Repealed		hb1162	133	1
79-11-201	Amended		hb1162	57	1
79-11-213	Amended		hb1162	58	1
79-11-289	Amended		hb1162	59	1
79-11-299	Amended		hb1162	60	1
79-11-327	Amended		hb1162	61	1
79-11-345	Amended		hb1162	62	1
79-11-347	Amended		hb1162	63	1
79-11-349	Amended		hb1162	64	1
79-11-351	Amended		hb1162	65	1
79-11-353	Amended		hb1162	66	1
79-11-355	Amended		hb1162	67	1
79-11-357	Amended		hb1162	68	1
79-11-367	Amended		hb1162	69	1
79-11-369	Amended		hb1162	70	1
79-11-375	Repealed		hb1162	134	1
79-11-377	Repealed		hb1162	135	1
79-11-379	Repealed		hb1162	136	1
79-11-381	Amended		hb1162	71	1
79-11-383	Amended		hb1162	72	1
79-11-385	Amended		hb1162	73	1
79-11-389	Amended		hb1162	74	1
79-11-391	Amended		hb1162	75	1
79-11-601	Repealed		hb1104	11	1
79-11-603	Repealed		hb1104	11	1
79-11-605	Repealed		hb1104	11	1
79-11-607	Repealed		hb1104	11	1
79-11-609	Repealed		hb1104	11	1
79-11-611	Repealed		hb1104	11	1
79-11-613	Repealed		hb1104	11	1
79-11-615	Repealed		hb1104	11	1
79-11-617	Repealed		hb1104	11	1
79-13-1001	Amended		hb1162	76	1
79-13-1003	Added		hb1162	77	1
79-13-1004	Added		hb1162	78	1
79-13-1005	Added		hb1162	79	1
79-13-1006	Added		hb1162	80	1
79-13-1102	Amended		hb1162	81	1
79-13-1106	Added		hb1162	82	1
79-13-1107	Added		hb1162	83	1
79-13-1108	Added		hb1162	84	1

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MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
79-13-1109	Added		hb1162	85	1
79-14-104	Amended		hb1162	86	1
79-14-201	Amended		hb1162	87	1
79-14-202	Amended		hb1162	88	1
79-14-207	Amended		hb1162	89	1
79-14-809	Added		hb1162	90	1
79-14-810	Added		hb1162	91	1
79-14-811	Added		hb1162	92	1
79-14-812	Added		hb1162	93	1
79-14-902	Amended		hb1162	94	1
79-14-910	Added		hb1162	95	1
79-14-911	Added		hb1162	96	1
79-14-912	Added		hb1162	97	1
79-14-913	Added		hb1162	98	1
79-14-1104	Amended		hb1162	99	1
79-15-109	Amended		hb1162	100	1
79-15-115	Repealed		hb1162	137	1
79-15-117	Repealed		hb1162	138	1
79-15-119	Repealed		hb1162	139	1
79-15-129	Amended		hb1162	101	1
79-15-131	Amended		hb1162	102	1
79-15-135	Amended		hb1162	103	1
79-16-11	Amended		hb1162	104	1
79-16-17	Repealed		hb1162	140	1
79-16-19	Repealed		hb1162	141	1
79-16-21	Repealed		hb1162	142	1
79-16-27	Amended		hb1162	105	1
79-16-29	Amended		hb1162	106	1
79-16-33	Amended		hb1162	107	1
79-29-113	Repealed		hb1162	143	1
79-29-125	Repealed		hb1162	144	1
79-29-201	Amended		hb1162	108	1
79-29-209	Amended		hb1162	109	1
79-29-211	Amended		hb1162	110	1
79-29-231	Amended		hb1162	111	1
79-29-803	Amended		hb1162	112	1
79-29-819	Amended		hb1162	113	1
79-29-823	Amended		hb1162	114	1
79-29-825	Amended		hb1162	115	1
79-29-827	Amended		hb1162	116	1
79-29-913	Amended		hb1162	117	1
79-29-923	Amended		hb1162	118	1
79-29-1003	Amended		hb1162	119	1
79-29-1023	Amended		hb1162	120	1
79-29-1025	Amended		hb1162	121	1
79-29-1203	Amended		hb0416	1	1
79-29-1203	Amended		hb1162	122	1
79-35	Added		hb1162	1	1
79-35-1	Added		hb1162	1	1
79-35-2	Added		hb1162	2	1
79-35-3	Added		hb1162	3	1
79-35-4	Added		hb1162	4	1
79-35-5	Added		hb1162	5	1

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MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
79-35-6	Added		hb1162	6	1
79-35-7	Added		hb1162	7	1
79-35-8	Added		hb1162	8	1
79-35-9	Added		hb1162	9	1
79-35-10	Added		hb1162	10	1
79-35-11	Added		hb1162	11	1
79-35-12	Added		hb1162	12	1
79-35-13	Added		hb1162	13	1
79-35-14	Added		hb1162	14	1
79-35-15	Added		hb1162	15	1
79-35-16	Added		hb1162	16	1
79-35-17	Added		hb1162	17	1
79-35-18	Added		hb1162	18	1
79-35-19	Added		hb1162	19	1
83-1-191	Amended		sb2578	1	1
83-5-205	Amended		hb0434	1	1
83-5-501	Reenacted		sb2577	1	1
83-5-503	Reenacted		sb2577	2	1
83-5-505	Reenacted		sb2577	3	1
83-5-507	Repealed		sb2577	4	1
83-9-211	Amended		sb2586	1	1
83-11-551	Amended		hb1416	1	1
83-17-401	Amended		sb2618	1	1
83-17-407	Amended		sb2618	2	1
83-21-23	Amended		sb2628	1	1
83-21-25	Amended		hb1348	1	1
83-29-45	Amended		hb0434	2	1
83-34-4	Amended		sb2626	1	1
83-41-337	Amended		hb0434	3	1
83-49-27	Amended		hb0434	4	1
83-51-31	Amended		sb2324	1	1
85-7-185	Amended		hb1301	1	1
91-17	Added		hb0732	1	1
91-17-1	Repealed		hb0732	2	1
91-17-3	Repealed		hb0732	2	1
91-17-5	Repealed		hb0732	2	1
91-17-7	Repealed		hb0732	2	1
91-17-9	Repealed		hb0732	2	1
91-17-11	Repealed		hb0732	2	1
91-17-13	Repealed		hb0732	2	1
91-17-15	Repealed		hb0732	2	1
91-17-17	Repealed		hb0732	2	1
91-17-19	Repealed		hb0732	2	1
91-17-21	Repealed		hb0732	2	1
91-17-23	Repealed		hb0732	2	1
91-17-25	Repealed		hb0732	2	1
91-17-27	Repealed		hb0732	2	1
91-17-29	Repealed		hb0732	2	1
91-17-31	Repealed		hb0732	2	1
91-17-101	Added		hb0732	1	1
91-17-101	Added		hb0732	1	1
91-17-102	Added		hb0732	1	1
91-17-103	Added		hb0732	1	1

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MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
91-17-104	Added		hb0732	1	1
91-17-105	Added		hb0732	1	1
91-17-201	Added		hb0732	1	1
91-17-201	Added		hb0732	1	1
91-17-202	Added		hb0732	1	1
91-17-301	Added		hb0732	1	1
91-17-301	Added		hb0732	1	1
91-17-302	Added		hb0732	1	1
91-17-303	Added		hb0732	1	1
91-17-401	Added		hb0732	1	1
91-17-401	Added		hb0732	1	1
91-17-402	Added		hb0732	1	1
91-17-403	Added		hb0732	1	1
91-17-404	Added		hb0732	1	1
91-17-405	Added		hb0732	1	1
91-17-406	Added		hb0732	1	1
91-17-407	Added		hb0732	1	1
91-17-408	Added		hb0732	1	1
91-17-409	Added		hb0732	1	1
91-17-410	Added		hb0732	1	1
91-17-411	Added		hb0732	1	1
91-17-412	Added		hb0732	1	1
91-17-413	Added		hb0732	1	1
91-17-414	Added		hb0732	1	1
91-17-415	Added		hb0732	1	1
91-17-501	Added		hb0732	1	1
91-17-501	Added		hb0732	1	1
91-17-502	Added		hb0732	1	1
91-17-503	Added		hb0732	1	1
91-17-504	Added		hb0732	1	1
91-17-505	Added		hb0732	1	1
91-17-506	Added		hb0732	1	1
91-17-601	Added		hb0732	1	1
91-17-601	Added		hb0732	1	1
91-17-602	Added		hb0732	1	1
91-17-603	Added		hb0732	1	1
91-17-604	Added		hb0732	1	1
91-21-3	Amended		hb0865	1	1
97-15-13	Amended		hb1326	1	1
97-37-11	Repealed		hb0455	1	1
99-19-73	Amended		hb0484	9	1

Mississippi Legislature
2012 Regular Session

House Bill 35

Description: Kevser Ermin Memorial Highway; designate certain segment of MS 314 in Lafayette County as.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/03 (H) Referred To Transportation
- 2 02/28 (H) Title Suff Do Pass
- 3 03/08 (H) Passed {Vote}
- 4 03/09 (H) Transmitted To Senate
- 5 03/16 (S) Referred To Highways and Transportation
- 6 04/02 (S) Title Suff Do Pass
- 7 04/04 (S) Passed {Vote}
- 8 04/05 (S) Transmitted To House
- 9 04/11 (S) Enrolled Bill Signed
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/17 Approved by Governor

----- Additional Information -----

House Committee: Transportation

Senate Committee: Highways and Transportation

Principal Author: Reynolds

Additional Authors: Massengill, Mayo, Mettetal

2012 GENERAL LAWS OF MISSISSIPPI, HB 35

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Reynolds, Massengill,
Mayo, Mettetal

To: Transportation

HOUSE BILL NO. 35

AN ACT TO DESIGNATE A CERTAIN SEGMENT OF MISSISSIPPI HIGHWAY 314 IN LAFAYETTE COUNTY AS "KEVSEER ERMIN MEMORIAL HIGHWAY"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) That segment of Mississippi Highway 314 in Lafayette County beginning at its intersection with County Road 102 and extending northwesterly for a distance of four and one-half (4-1/2) miles, is designated and shall be known as the "Kevseer Ermin Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 98

Description: U.S. Highway 78; designate certain segment of in Benton and Marshall Counties as "William R. 'Bill' Minor Memorial Highway."

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/06 (H) Referred To Transportation
- 2 02/22 (H) Title Suff Do Pass
- 3 02/23 (H) Passed (Vote)
- 4 02/24 (H) Transmitted To Senate
- 5 02/24 (S) Referred To Highways and Transportation
- 6 04/02 (S) Title Suff Do Pass
- 7 04/04 (S) Passed (Vote)
- 8 04/05 (S) Transmitted To House
- 9 04/11 (S) Enrolled Bill Signed
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/16 Approved by Governor

----- **Additional Information** -----

House Committee: Transportation

Senate Committee: Highways and Transportation

Principal Author: Woods

Additional Authors: Buck (5th), Arnold, Flagg, Howell, Jennings, Ladner, Malone, Martinson, Massengill, Mettetal, Perkins, Rogers (61st), Weathersby

2012 GENERAL LAWS OF MISSISSIPPI, HB 98

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Woods, Buck (5th),
Arnold, Flaggs, Howell, Jennings, Ladner,
Malone, Martinson, Massengill, Mettetal,
Perkins, Rogers (61st), Weathersby

To: Transportation

HOUSE BILL NO. 98

AN ACT TO DESIGNATE A CERTAIN SEGMENT OF U.S. HIGHWAY 78
WITHIN MISSISSIPPI AS THE "WILLIAM R. 'BILL' MINOR MEMORIAL
HIGHWAY"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) That segment of highway that is designated
as U.S. Highway 78 and will be redesignated as Interstate 22
beginning at the Marshall/DeSoto county line and extending to the
Benton/Union county line shall be known and designated as the
"William R. 'Bill' Minor Memorial Highway."

(2) The Mississippi Department of Transportation shall erect
and maintain appropriate signs along and approaching the segment
of highway described in subsection (1) of this section.

SECTION 2. This act shall take effect and be in force from
and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 99

Description: Mississippi Highway 51; designate segment of in Town of Goodman, Holmes County, as "Martin Luther King, Jr., Memorial Hwy."

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/06 (H) Referred To Transportation
- 2 02/22 (H) Title Suff Do Pass
- 3 02/23 (H) Passed {Vote}
- 4 02/24 (H) Transmitted To Senate
- 5 02/24 (S) Referred To Highways and Transportation
- 6 04/02 (S) Title Suff Do Pass
- 7 04/04 (S) Passed {Vote}
- 8 04/05 (S) Transmitted To House
- 9 04/10 (S) Enrolled Bill Signed
- 10 04/10 (H) Enrolled Bill Signed
- 11 04/13 Approved by Governor

----- Additional Information -----

House Committee: Transportation

Senate Committee: Highways and Transportation

Principal Author: Clark

2012 GENERAL LAWS OF MISSISSIPPI, HB 99

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Clark

To: Transportation

HOUSE BILL NO. 99

AN ACT TO DESIGNATE A CERTAIN SEGMENT OF MISSISSIPPI HIGHWAY 51 IN HOLMES COUNTY AS "MARTIN LUTHER KING, JR., MEMORIAL HIGHWAY"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) That segment of Mississippi Highway 51 in Holmes County that lies within the corporate limits of the Town of Goodman, is designated and shall be known as the "Martin Luther King, Jr., Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 263

Description: Master planned community; revise definition of.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/13 (H) Referred To County Affairs
- 2 02/21 (H) Title Suff Do Pass
- 3 02/23 (H) Passed (Vote)
- 4 02/24 (H) Transmitted To Senate
- 5 02/24 (S) Referred To Economic Development;County Affairs
- 6 04/02 (S) DR - TSDP: EC To CA
- 7 04/03 (S) Title Suff Do Pass
- 8 04/09 (S) Passed (Vote)
- 9 04/10 (S) Transmitted To House
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/12 (S) Enrolled Bill Signed
- 12 04/18 Approved by Governor

Code Section: A 019-0005-0010

----- Additional Information -----

House Committee: County Affairs

Senate Committee: Economic Development, County Affairs

Principal Author: Shows

Additional Authors: Staples

2012 GENERAL LAWS OF MISSISSIPPI, HB 263

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Shows, Staples

To: County Affairs

HOUSE BILL NO. 263

AN ACT TO AMEND SECTION 19-5-10, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES COUNTY BOARDS OF SUPERVISORS TO ENTER INTO DEVELOPMENT AGREEMENTS WITH THE DEVELOPERS OF MASTER PLANNED COMMUNITIES IN ORDER TO AUTHORIZE MASTER PLANNED COMMUNITIES, TO REVISE THE DEFINITION OF THE TERM "MASTER PLANNED COMMUNITY"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 19-5-10, Mississippi Code of 1972, is amended as follows:

19-5-10. (1) The board of supervisors of any county is authorized to enter into one or more development agreements with the developer or developers of a master planned community in order to authorize, in addition to any other matters to which the board of supervisors may lawfully obligate the county, the master planned community, through a community self-governing entity created by the owners of the property, to administer, manage and enforce the land use restrictions and covenants, land use regulations, subdivision regulations, building codes and regulations, and any other limitations and restrictions on land and buildings provided in the master plan for the master planned community, in lieu of the real estate and property owners within the master planned community being subject to the county ordinances and regulations pertaining to buildings, subdivisions, zoning, the county's comprehensive plan, and any other county ordinances and regulations pertaining thereto. Prior to entering into any such development agreement, the board of supervisors shall review the master plan for the master planned community and find that the provisions of the master plan providing for

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regulations, restrictions, covenants and limitations pertaining to building, subdivisions, zoning and comprehensive planning shall be comparable to, or greater than, similar provisions in the ordinances and regulations of the county. The term of such a development agreement may be not more than thirty (30) years or the number of years allowed in the county's subdivision ordinance for terms of subdivision covenants, whichever is greater. The development agreement shall have attached to it a boundary survey made by a registered land surveyor, and upon approval of the development agreement by the board of supervisors, the boundary survey shall be recorded in the land records of the chancery clerk of the county. The recorded boundary survey shall serve as the description of the property within the master planned community which shall not be subject to the county's zoning map, and the county's zoning map shall simply recognize the territory described in such boundary survey as a "master planned community." Whenever there may be a conflict between the county ordinances and regulations pertaining to buildings, subdivisions, zoning, the county's comprehensive plan, and any other county ordinances and regulations pertaining thereto, and the provisions of such a development agreement, including the provisions of the master plan providing for regulations, restrictions, covenants and limitations pertaining to buildings, subdivisions, zoning and comprehensive planning, the provisions of the development agreement shall prevail if the provisions of the development agreement are comparable to or greater than similar provisions of county ordinances and regulations.

(2) As used in this section, the term "master planned community" means a development by one or more developers of real estate consisting of residential, commercial, educational, health care, open space and recreational components that is developed pursuant to a long range, multi-phase master plan providing comprehensive land use planning and staged implementation and

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development and the master plan must include the following minimum provisions:

(a) The real estate described in the master plan must consist of not less than two thousand five hundred (2,500) acres. The master plan may require that not less than fifty percent (50%) of the total dwelling units planned for such acreage must be:

(i) Dwelling units within a certified retirement community certified by the Mississippi Development Authority; or

(ii) Dwelling units where at least one (1) occupant:

1. Is sixty-two (62) years of age; or

2. Receives pension income reported on his or her most recent federal income tax return filed prior to occupancy; or

3. Declares himself to be retired.

(b) The real estate described in the master plan must be subjected to a set of land use restrictions imposed by deed restriction or restrictive covenants recorded by the developer in the land records of the chancery clerk of the county as land is developed and sold in phases to users. Such restrictions shall include design guidelines and standards that provide for:

(i) Internal community self-governance by the owners of the property;

(ii) The establishment of one or more legal persons endowed with the powers, rights and duties to administer, manage, own and maintain common areas, establish community activities and enforce the land use restrictions on the common areas and private property; and

(iii) The establishment of assessments and lien rights to fund amenities, services and maintenance of common areas.

(c) The real estate described in the master plan must be within the territorial boundaries of one or more public utility

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districts established by the county for the provision of water and sewer facilities and water and sewer services.

(3) The master plan for a master planned community shall be subject to modification from time to time by the original owner or owners of the real estate described in the initial master plan, its affiliates, successors or assigns to meet changing economic and market conditions; provided, however, any such modifications in the master plan which materially change the regulations, restrictions, covenants and limitations pertaining to buildings, subdivisions and land use regulations approved in the development agreement, or which significantly change the overall plan concept, shall be subject to, and shall not take effect until, approved by the board of supervisors of the county.

(4) As used in this section, the term "dwelling unit" means single-family residences, apartments or other units within a multi-family residence, or a room or apartment in a nursing home or congregate-care facility.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 264

Description: Mississippi Veterans Memorial Cemetery; authorize additional cemeteries.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/13 (H) Referred To Military Affairs
- 2 02/23 (H) Title Suff Do Pass
- 3 03/08 (H) Passed Vote
- 4 03/09 (H) Transmitted To Senate
- 5 03/16 (S) Referred To Veterans and Military Affairs
- 6 03/27 (S) Title Suff Do Pass
- 7 04/05 (S) Passed Vote
- 8 04/09 (S) Transmitted To House
- 9 04/11 (H) Enrolled Bill Signed
- 10 04/12 (S) Enrolled Bill Signed
- 11 04/18 Approved by Governor

Code Section: A 035-0001-0041

----- Additional Information -----

House Committee: Military Affairs

Senate Committee: Veterans and Military Affairs

Principal Author: Howell

Additional Authors: Bell, Bounds, Chism, Denny, Huddleston (15th), Turner, Miles, Reynolds, Myers

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Howell, Bell, Bounds,
Chism, Denny, Huddleston (15th), Turner,
Miles, Reynolds, Myers

To: Military Affairs

HOUSE BILL NO. 264

AN ACT TO AMEND SECTION 35-1-41, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE VETERANS AFFAIRS BOARD TO ESTABLISH, OPERATE AND MAINTAIN ADDITIONAL VETERANS CEMETERIES IN THIS STATE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 35-1-41, Mississippi Code of 1972, is amended as follows:

35-1-41. (1) (a) The State Veterans Affairs Board is authorized to establish, operate and maintain a Mississippi veterans cemetery in this state, which shall be known as the "Mississippi Veterans Memorial Cemetery."

(b) The State Veterans Affairs Board is authorized to establish, operate and maintain additional veterans cemeteries in this state.

(2) The State Veterans Affairs Board has the primary responsibility for verifying eligibility for interment in the veterans cemeteries. Eligibility criteria for interment in the cemeteries is the same as required for interment in a national cemetery as provided by federal law and rules and regulations applicable thereto.

(3) The cemeteries shall be under the control and administration of the State Veterans Affairs Board.

(4) Applications for interment in the cemeteries shall be processed in accordance with rules and regulations promulgated by the State Veterans Affairs Board.

(5) The State Veterans Affairs Board is designated as the agency of this state to receive federal aid under Title 38 USCS,

2012 GENERAL LAWS OF MISSISSIPPI, HB 264

as amended, and is authorized to receive funds from the United States Department of Veterans Affairs or any other agency of the United States authorized to grant or expend funds to assist a state in establishing, operating and maintaining * * * veterans cemeteries. The board is authorized to receive gifts, contributions, bequests and individual reimbursements from any source, the receipt of which shall not exclude any other source of revenue. All funds received by the board pursuant to this subsection shall be deposited into a special fund, hereby created and known as the "Mississippi Veterans Cemetery Fund," and shall be expended to establish, operate and maintain * * * veterans cemeteries in this state. The State Veterans Affairs Board is authorized to employ such personnel as it may deem necessary to carry out its duties and responsibilities under this section.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 316

Description: Children's Health Insurance Program; transfer administration of to Division of Medicaid.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: January 1, 2013

History of Actions:

- 1 02/13 (H) Referred To Medicaid
- 2 02/29 (H) Title Suff Do Pass Comm Sub
- 3 03/13 (H) Committee Substitute Adopted
- 4 03/13 (H) Passed {Vote}
- 5 03/15 (H) Transmitted To Senate
- 6 03/16 (S) Referred To Public Health and Welfare
- 7 03/28 (S) Title Suff Do Pass
- 8 04/04 (S) Passed {Vote}
- 9 04/05 (S) Transmitted To House
- 10 04/10 (S) Enrolled Bill Signed
- 11 04/10 (H) Enrolled Bill Signed
- 12 04/16 Approved by Governor

Code Section: A 041-0086-0001, A 041-0086-0005, A 041-0086-0007, A 041-0086-0009, A 041-0086-0011, A 041-0086-0013, A 041-0086-0015, RP 041-0086-0003, RP 041-0086-0017, RP 041-0086-0019, RP 041-0086-0021

---- **Additional Information** ----

House Committee: Medicaid

Senate Committee: Public Health and Welfare

Principal Author: Chism

Additional Authors: Howell

2012 GENERAL LAWS OF MISSISSIPPI, HB 316

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Chism, Howell

To: Medicaid

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 316

AN ACT TO AMEND SECTIONS 41-86-1, 41-86-5, 41-86-7, 41-86-9, 41-86-11, 41-86-13 AND 41-86-15, MISSISSIPPI CODE OF 1972, TO TRANSFER THE ADMINISTRATION OF THE MISSISSIPPI CHILDREN'S HEALTH INSURANCE PROGRAM FROM THE STATE AND SCHOOL EMPLOYEES HEALTH INSURANCE MANAGEMENT BOARD TO THE DIVISION OF MEDICAID; TO REPEAL SECTIONS 41-86-3, 41-86-17, 41-86-19 AND 41-86-21, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR A TEMPORARY PROGRAM FOR CHILDREN'S HEALTH INSURANCE, SPECIFY THE COVERED BENEFITS AND SERVICES TO BE PROVIDED UNDER THE CHILDREN'S HEALTH INSURANCE PROGRAM, ESTABLISH A CHILDREN'S HEALTH INSURANCE PROGRAM ENROLLMENT OUTREACH INITIATIVE, AND ESTABLISH A CHILDREN'S HEALTH INSURANCE PROGRAM ADVISORY BOARD AND JOINT LEGISLATIVE ADVISORY COMMITTEE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 41-86-1, Mississippi Code of 1972, is amended as follows:

41-86-1. This chapter shall be known as and may be cited as the Mississippi Children's Health Insurance Program Act.

SECTION 2. Section 41-86-5, Mississippi Code of 1972, is amended as follows:

41-86-5. As used in this chapter, the following definitions shall have the meanings ascribed in this section, unless the context indicates otherwise:

* * *

(a) "Child" means an individual who is under nineteen (19) years of age who is not eligible for Medicaid benefits and is not covered by other health insurance.

* * *

(b) "Covered benefits" means the types of health care benefits and services provided to eligible recipients under the * * * program.

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(c) "Division" means the Division of Medicaid in the Office of the Governor.

(d) "Low-income child" means a child whose family income does not exceed two hundred percent (200%) of the poverty level for a family of the size involved.

(e) "Plan" means the State Child Health Plan.

(f) "Program" means the Mississippi Children's Health Insurance Program established by this chapter.

(g) "Recipient" means a person who is eligible for assistance under the program.

(h) "State Child Health Plan" means the permanent plan that sets forth the manner and means by which the State of Mississippi will provide health care assistance to eligible uninsured, low-income children consistent with the provisions of Title XXI of the federal Social Security Act, as amended.

SECTION 3. Section 41-86-7, Mississippi Code of 1972, is amended as follows:

41-86-7. There is established a Children's Health Insurance Program in Mississippi, which * * * shall be financed by state appropriations and federal matching funds received by the state under the * * * Children's Health Insurance Program established by Title XXI of the federal Social Security Act, as amended.

SECTION 4. Section 41-86-9, Mississippi Code of 1972, is amended as follows:

41-86-9. On January 1, 2013, the Mississippi Children's Health Insurance Program and the current contract for insurance services shall be transferred from the State and School Employees Health Insurance Management Board to the Division of Medicaid, and the division shall be responsible for the implementation and administration of the Mississippi Children's Health Insurance Program in accordance with federal law and regulations and this chapter from and after January 1, 2013. The Health Insurance Management Board shall be responsible for any audit or claims

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processing issues for the period during which the board administered the program.

SECTION 5. Section 41-86-11, Mississippi Code of 1972, is amended as follows:

41-86-11. (1) The division shall adopt, in accordance with Section 25-43-1.101 et seq., rules and regulations for the implementation of the program, and for the coordination of the program with the state's other medical assistance programs.

(2) * * * The division shall have all of the authority set forth in Section 43-13-101 et seq. in administering the program.

(3) The division shall make reports to the federal government and to the Legislature on the providing of benefits to those children under the program.

(4) The division shall execute a contract or contracts to provide the health care coverage and services under the program in a manner that is consistent with all federal and state procurement regulations.

* * *

SECTION 6. Section 41-86-13, Mississippi Code of 1972, is amended as follows:

41-86-13. (1) The division * * * shall receive state appropriations for the program and federal matching funds under the * * * Children's Health Insurance Program established by Title XXI of the federal Social Security Act, as amended, * * * for the administration of the program. The Legislature shall include those funds as a line item in the appropriation to the division * * *.

(2) The program is subject to the availability of state funds specifically appropriated by the Legislature for the purpose of the program and federal matching funds under the * * * Children's Health Insurance Program established by Title XXI of the federal Social Security Act, as amended. The division may limit enrollment as necessary to ensure that the costs of the

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program do not exceed the total amount of state and federal funds appropriated by the Legislature for that purpose.

SECTION 7. Section 41-86-15, Mississippi Code of 1972, is amended as follows:

41-86-15. Persons eligible to receive covered benefits under this chapter shall be low-income children who meet the eligibility standards set forth in the State Child Health Plan. Any person who is eligible for benefits under the Mississippi Medicaid Law, Section 43-13-101 et seq., shall not be eligible to receive benefits under this chapter. A person who is without insurance coverage at the time of application for the program and who meets the other eligibility criteria in the plan shall be eligible to receive covered benefits under the program.

SECTION 8. Sections 41-86-3, 41-86-17, 41-86-19 and 41-86-21, Mississippi Code of 1972, which provide for a temporary program for children's health insurance, specify the covered benefits and services to be provided under the Children's Health Insurance Program, establish a Children's Health Insurance Program enrollment outreach initiative, and establish a Children's Health Insurance Program advisory board and joint legislative advisory committee, are repealed.

SECTION 9. This act shall take effect and be in force from and after January 1, 2013.

Mississippi Legislature
2012 Regular Session

House Bill 361

Description: Circuit clerks; require to charge a fee for the docketing and filing of a notice of renewal of judgment.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2012

History of Actions:

- 1 02/13 (H) Referred To Fees and Salaries of Public Officers
- 2 03/06 (H) Title Suff Do Pass
- 3 03/09 (H) Tabled Subject To Call
- 4 03/15 (H) Passed *{Vote}*
- 5 03/16 (H) Transmitted To Senate
- 6 03/20 (S) Referred To Accountability, Efficiency, Transparency
- 7 04/02 (S) Title Suff Do Pass
- 8 04/04 (S) Passed *{Vote}*
- 9 04/05 (S) Transmitted To House
- 10 04/10 (S) Enrolled Bill Signed
- 11 04/10 (H) Enrolled Bill Signed
- 12 04/16 Approved by Governor

Code Section: A 025-0007-0013

----- Additional Information -----

House Committee: Fees and Salaries of Public Officers

Senate Committee: Accountability, Efficiency, Transparency

Principal Author: Read

2012 GENERAL LAWS OF MISSISSIPPI, HB 361

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Read

To: Fees and Salaries of
Public Officers

HOUSE BILL NO. 361

AN ACT TO AMEND SECTION 25-7-13, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CIRCUIT CLERKS SHALL CHARGE A FEE FOR THE DOCKETING AND FILING OF A NOTICE OF RENEWAL OF JUDGMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-7-13, Mississippi Code of 1972, is amended as follows:

25-7-13. (1) The clerks of the circuit court shall charge the following fees:

(a) Docketing, filing, marking and registering each complaint, petition and indictment.....\$ 85.00

The fee set forth in this paragraph shall be the total fee for all services performed by the clerk up to and including entry of judgment with respect to each complaint, petition or indictment, including all answers, claims, orders, continuances and other papers filed therein, issuing each writ, summons, subpoena or other such instruments, swearing witnesses, taking and recording bonds and pleas, and recording judgments, orders, fiats and certificates; the fee shall be payable upon filing and shall accrue to the clerk at the time of collection. The clerk or his successor in office shall perform all duties set forth above without additional compensation or fee.

(b) Docketing and filing each motion to renew judgment, notice of renewal of judgment, suggestion for a writ of garnishment, suggestion for a writ of execution and judgment debtor actions and issuing all process, filing and recording orders or other papers and swearing witnesses.....\$ 35.00

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(c) For every civil case filed, an additional fee to be deposited to the credit of the Comprehensive Electronic Court Systems Fund established in Section 9-21-14.....\$ 10.00

(2) Except as provided in subsection (1) of this section, the clerks of the circuit court shall charge the following fees:

(a) Filing and marking each order or other paper and recording and indexing same.....\$ 2.00

(b) Issuing each writ, summons, subpoena, citation, capias and other such instruments.....\$ 1.00

(c) Administering an oath and taking bond.....\$ 2.00

(d) Certifying copies of filed documents, for each complete document.....\$ 1.00

(e) Recording orders, fiats, licenses, certificates, oaths and bonds:

First page.....\$ 2.00

Each additional page.....\$ 1.00

(f) Furnishing copies of any papers of record or on file and entering marginal notations on documents of record:

If performed by the clerk or his employee,
per page.....\$ 1.00

If performed by any other person, per page.....\$.25

(g) Judgment roll entry.....\$ 5.00

(h) Taxing cost and certificate.....\$ 1.00

(i) For taking and recording application for marriage license, for filing and recording consent of parents when required by law, for filing and recording medical certificate, filing and recording proof of age, recording and issuing license, recording and filing returns.....\$ 20.00

The clerk shall deposit Fourteen Dollars (\$14.00) of each fee collected for a marriage license in the Victims of Domestic Violence Fund established in Section 93-21-117, on a monthly basis.

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(j) For certified copy of marriage license and search of record, the same fee charged by the Bureau of Vital Statistics of the State Board of Health.

(k) For public service not particularly provided for, the circuit court may allow the clerk, per annum, to be paid by the county on presentation of the circuit court's order, the following amount.....\$5,000.00

However, in the counties having two (2) judicial districts, such above allowance shall be made for each judicial district.

(l) For drawing jurors and issuing venire, to be paid by the county.....\$ 5.00

(m) For each day's attendance upon the circuit court term, for himself and necessary deputies allowed by the court, each to be paid by the county.....\$ 50.00

(n) Summons, each juror to be paid by the county upon the allowance of the court.....\$ 1.00

(o) For issuing each grand jury subpoena, to be paid by the county on allowance by the court, not to exceed Twenty-five Dollars (\$25.00) in any one (1) term of court.....\$ 1.00

(p) For each civil filing, to be deposited into the Civil Legal Assistance Fund.....\$ 5.00

(3) On order of the court, clerks and deputies may be allowed five (5) extra days for attendance upon the court to get up records.

(4) The clerk's fees in state cases where the state fails in the prosecution, or in cases of felony where the defendant is convicted and the cost cannot be made out of his estate, in an amount not to exceed Four Hundred Dollars (\$400.00) in one (1) year, shall be paid out of the county treasury on approval of the circuit court, and the allowance thereof by the board of supervisors of the county. In counties having two (2) judicial districts, such allowance shall be made in each judicial district; however, the maximum thereof shall not exceed Eight Hundred

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Dollars (\$800.00). Clerks in the circuit court, in cases where appeals are taken in criminal cases and no appeal bond is filed, shall be allowed by the board of supervisors of the county after approval of their accounts by the circuit court, in addition to the above fees, for making such transcript the rate of Two Dollars (\$2.00) per page.

(5) The clerk of the circuit court may retain as his commission on all money coming into his hands, by law or order of the court, a sum to be fixed by the court not exceeding one-half of one percent (1/2 of 1%) on all such sums.

(6) For making final records required by law, including, but not limited to, circuit and county court minutes, and furnishing transcripts of records, the circuit clerk shall charge Two Dollars (\$2.00) per page. The same fees shall be allowed to all officers for making and certifying copies of records or papers which they are authorized to copy and certify.

(7) The circuit clerk shall prepare an itemized statement of fees for services performed, cost incurred, or for furnishing copies of any papers of record or on file, and shall submit the statement to the parties or, if represented, to their attorneys within sixty (60) days. A bill for same shall accompany the statement.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 368

Description: Oysters; revise restrictions for commercial harvesting of.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/13 (H) Referred To Marine Resources
- 2 02/29 (H) Title Suff Do Pass
- 3 03/08 (H) Passed *{Vote}*
- 4 03/09 (H) Transmitted To Senate
- 5 03/16 (S) Referred To Ports and Marine Resources
- 6 03/29 (S) Title Suff Do Pass
- 7 04/04 (S) Passed *{Vote}*
- 8 04/05 (S) Transmitted To House
- 9 04/10 (S) Enrolled Bill Signed
- 10 04/10 (H) Enrolled Bill Signed
- 11 04/13 Approved by Governor

Code Section: A 049-0015-0315

----- Additional Information -----

House Committee: Marine Resources

Senate Committee: Ports and Marine Resources

Principal Author: Eure

2012 GENERAL LAWS OF MISSISSIPPI, HB 368

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Eure

To: Marine Resources

HOUSE BILL NO. 368

AN ACT TO AMEND SECTION 49-15-315, MISSISSIPPI CODE OF 1972, TO REVISE THE RESTRICTIONS FOR COMMERCIAL HARVESTING OF OYSTERS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 49-15-315, Mississippi Code of 1972, is amended as follows:

49-15-315. (1) It is unlawful for any person, firm or corporation to engage in commercial harvesting of crabs, oysters, shrimp, bait shrimp or saltwater fish in the marine waters north of the CSX bridge in the three (3) coastal counties, except for the following:

(a) A person may take any euryhaline species of minnow; and

(b) A licensed commercial oyster fisherman may harvest oysters from reefs approved by the commission.

* * *

(2) The Gulf Coast Research Laboratory shall study all estuaries and bays deemed to be nurseries. The Gulf Coast Research Laboratory may recommend the establishment of nursery grounds in the estuaries and bays if necessary to protect the state's fishing resources.

(3) The department shall set the limits on all catches for noncommercial use.

(4) A person, firm or corporation found guilty of violating this section is guilty of a misdemeanor and shall be fined as provided in Section 49-15-100(2), or imprisoned not more than three (3) months or both; and in addition, the commission shall

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seize and confiscate all commercial nets, trawls, traps, tongs and boats used for such purpose and dispose of it at public sale and shall deposit the proceeds to the credit of the Seafood Fund. If the person in possession of or using the nets in the violation is not the owner or licensee of the nets, the department shall notify the owner or licensee of the nets. The nets shall be subject to forfeiture unless the nets were stolen and prosecution for the theft is initiated.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 369

Description: Corrections; reenact and remove repealer on general inmate authority of the Department of Corrections.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 02/13 (H) Referred To Corrections
- 2 03/02 (H) Title Suff Do Pass
- 3 03/08 (H) Passed (Vote)
- 4 03/09 (H) Transmitted To Senate
- 5 03/16 (S) Referred To Corrections
- 6 03/27 (S) Title Suff Do Pass
- 7 04/05 (S) Passed (Vote)
- 8 04/09 (S) Transmitted To House
- 9 04/11 (H) Enrolled Bill Signed
- 10 04/12 (S) Enrolled Bill Signed
- 11 04/18 Approved by Governor

Code Section: RA 047-0005-0110

—— Additional Information ——

House Committee: Corrections

Senate Committee: Corrections

Principal Author: Flaggs

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Flags

To: Corrections

HOUSE BILL NO. 369

AN ACT TO REENACT SECTION 47-5-110, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT ANY COMMITMENT TO ANY INSTITUTION OR FACILITY WITHIN THE JURISDICTION OF THE DEPARTMENT OF CORRECTIONS SHALL BE TO THE DEPARTMENT OF CORRECTIONS AND WHICH WAS REPEALED BY OPERATION OF LAW ON JULY 1, 2011; TO AMEND THE REENACTED SECTION TO REMOVE THE DATE OF REPEAL; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 47-5-110, Mississippi Code of 1972, is reenacted and amended as follows:

47-5-110. (1) Commitment to any institution or facility within the jurisdiction of the department shall be to the department, not to a particular institution or facility. The commissioner shall assign a newly committed offender to an appropriate facility consistent with public safety; provided, however, that any offender who, in the opinion of the sentencing judge, requires confinement in a maximum security unit shall be assigned, upon initial commitment, to the Parchman facility. The commissioner may extend the place of confinement of eligible offenders as provided under subsection (2) of this section. He may transfer an offender from one (1) institution to another, consistent with the commitment and in accordance with treatment, training and security needs. The commissioner shall have the authority to transfer inmates from the various correctional facilities of the department to restitution centers if such inmates meet the qualifications prescribed in Section 99-37-19. The commissioner shall prepare appropriate standards of eligibility for such transfers of offenders from one (1) institution to another institution and transfers of offenders who

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meet the qualifications for placement in restitution centers. The commissioner shall have the authority to remove the offenders from restitution centers and to transfer them to other facilities of the department. The commissioner shall obtain the approval of the sentencing court before transferring an offender committed to the department to a restitution center. On the request of the chief executive officer of the affected unit of local government, the commissioner may transfer a person detained in a local facility to a state facility. The commissioner shall determine the cost of care for that person to be borne by the unit of local government. The commissioner may assign to a community work center, any offender who is convicted under the Mississippi Implied Consent Law and who is sentenced to the custody of the Department of Corrections, except that if a death or a serious maiming has occurred during the commission of the violation of the Mississippi Implied Consent Law, then the offender so convicted may not be assigned to a community work center.

(2) The department may establish by rule or policy and procedure a community prerelease program which shall be subject to the following requirements:

(a) The commissioner may extend the limits of confinement of offenders serving sentences for violent or nonviolent crimes who have six (6) months or less remaining before release on parole, conditional release or discharge to participate in the program. Parole violators may be allowed to participate in the program.

(b) Any offender who is referred to the program shall remain an offender of the department and shall be subject to rules and regulations of the department pertaining to offenders of the department until discharged or released on parole or conditional release by the State Parole Board.

(c) The department shall require the offender to participate in work or educational or vocational programs and

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other activities that may be necessary for the supervision and treatment of the offender.

(d) An offender assigned to the program shall be authorized to leave a community prerelease center only for the purpose and time necessary to participate in the program and activities authorized in paragraph (c) of this subsection.

(3) The commissioner shall have absolute immunity from liability for any injury resulting from a determination by the commissioner that an offender shall be allowed to participate in the community prerelease program.

(4) (a) The department may by rule or policy and procedure provide the regimented inmate discipline program and prerelease service for offenders at each of its major correctional facilities: Mississippi State Penitentiary, Central Mississippi Correctional Institution and South Mississippi Correctional Institution.

(b) The commissioner may establish regimented inmate discipline and prerelease programs at the South Mississippi Correctional Institution. Offenders assigned to this facility may receive the services provided by the regimented inmate discipline program. The prerelease program may be located on the grounds of this facility or another facility designated by the commissioner.

* * *

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

House Bill 391

Description: Memorial interchange; designate for John Wayne Haddock in Grenada County.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/13 (H) Referred To Transportation
- 2 02/28 (H) Title Suff Do Pass
- 3 03/08 (H) Passed *{Vote}*
- 4 03/09 (H) Transmitted To Senate
- 5 03/16 (S) Referred To Highways and Transportation
- 6 04/02 (S) Title Suff Do Pass
- 7 04/04 (S) Passed *{Vote}*
- 8 04/05 (S) Transmitted To House
- 9 04/11 (S) Enrolled Bill Signed
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/17 Approved by Governor

---- Additional Information ----

House Committee: Transportation

Senate Committee: Highways and Transportation

Principal Author: Horan

Additional Authors: Hood, Howell, White

2012 GENERAL LAWS OF MISSISSIPPI, HB 391

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Horan, Hood, Howell,
White

To: Transportation

HOUSE BILL NO. 391

AN ACT TO DESIGNATE THE INTERSTATE HIGHWAY 55 AND MISSISSIPPI HIGHWAY 8 INTERCHANGE IN GRENADA COUNTY AS THE "JOHN WAYNE HADDOCK MEMORIAL INTERCHANGE"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) The Interstate Highway 55 and Mississippi Highway 8 interchange in Grenada County is designated and shall be known as the "John Wayne Haddock Memorial Interchange."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 411

Description: Livestock facilities; extend repealer on authority of certain organizations to hold shows for no charge.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/13 (H) Referred To Agriculture
- 2 02/28 (H) Title Suff Do Pass
- 3 03/08 (H) Passed Vote
- 4 03/09 (H) Transmitted To Senate
- 5 03/16 (S) Referred To Agriculture
- 6 03/29 (S) Title Suff Do Pass
- 7 04/05 (S) Passed Vote
- 8 04/09 (S) Transmitted To House
- 9 04/11 (H) Enrolled Bill Signed
- 10 04/12 (S) Enrolled Bill Signed
- 11 04/18 Approved by Governor

Code Section: A 069-0005-0114

---- Additional Information ----

House Committee: Agriculture

Senate Committee: Agriculture

Principal Author: Formby

2012 GENERAL LAWS OF MISSISSIPPI, HB 411

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Formby

To: Agriculture

HOUSE BILL NO. 411

AN ACT TO AMEND SECTION 69-5-114, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE PROVISION OF LAW THAT AUTHORIZES CERTAIN ORGANIZATIONS TO USE CERTAIN LIVESTOCK FACILITIES FOR LIVESTOCK SHOWS AT NO COST TO THE ORGANIZATIONS FOR SUCH USE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 69-5-114, Mississippi Code of 1972, is amended as follows:

69-5-114. In any livestock facility constructed, renovated or expanded with funds from the grant program authorized under Section 18 of Chapter 530, Laws of 1995, the members of the Future Farmers of America, the 4-H Club, the Junior Livestock Association and the United States Pony Club, Inc., may hold up to three (3) animal or livestock shows or sales per year per facility at no charge for use of the facility or for utilities. This section shall stand repealed on July 1, 2015.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 412

Description: Psychologists; delete repealers on the education and supervised experience requirements for licensure.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2012

History of Actions:

- 1 02/13 (H) Referred To Public Health and Human Services
- 2 02/23 (H) Title Suff Do Pass Comm Sub
- 3 03/08 (H) Committee Substitute Adopted
- 4 03/08 (H) Passed [Vote]
- 5 03/09 (H) Transmitted To Senate
- 6 03/16 (S) Referred To Public Health and Welfare
- 7 03/28 (S) Title Suff Do Pass
- 8 04/04 (S) Passed [Vote]
- 9 04/05 (S) Transmitted To House
- 10 04/11 (S) Enrolled Bill Signed
- 11 04/11 (H) Enrolled Bill Signed
- 12 04/17 Approved by Governor

Code Section: A 073-0031-0013

----- Additional Information -----

House Committee: Public Health and Human Services

Senate Committee: Public Health and Welfare

Principal Author: Formby

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Formby

To: Public Health and Human
Services

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 412

AN ACT TO AMEND SECTION 73-31-13, MISSISSIPPI CODE OF 1972, TO DELETE THE REPEALERS ON THE PROVISIONS IN THE PSYCHOLOGIST LICENSURE LAW THAT SPECIFY THE EDUCATION AND SUPERVISED EXPERIENCE REQUIREMENTS FOR LICENSURE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-31-13, Mississippi Code of 1972, is amended as follows:

73-31-13. The board shall issue a license as a psychologist to each applicant who files an application upon a form and in the manner as the board prescribes, accompanied by the fee as is required by this chapter; and who furnishes evidence satisfactory to the board that he or she:

- (a) Is at least twenty-one (21) years of age; and
- (b) Is a citizen of the United States, a Canadian citizen applying for licensure under the terms of a reciprocity agreement, or has declared his or her intention to become a citizen. A statement by the applicant under oath that he or she is a citizen, a Canadian citizen applying for licensure under the terms of a reciprocity agreement, or that he or she intends to apply for citizenship when he or she becomes eligible to make that application, shall be sufficient proof of compliance with this requirement; and
- (c) Is of good moral character. The applicant must have successfully been cleared for licensure through an investigation that consists of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure. For the purposes of this chapter, good moral character

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includes an absence of felony convictions or misdemeanor convictions involving moral turpitude as established by a criminal background check. Applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose; and

(d) Is not in violation of any of the provisions of this chapter and the rules and regulations adopted under this chapter, and is not currently under investigation by another licensure board; and

(e) Holds a doctoral degree in psychology from an institution of higher education that is: regionally accredited by an accrediting body recognized by the U.S. Department of Education, or authorized by Provincial statute or Royal Charter to grant doctoral degrees: and from a program accredited by the American Psychological Association, or the Canadian Psychological Association. For graduates from newly established programs seeking accreditation or in areas where no accreditation exists, applicants for licensure shall have completed a doctoral program in psychology that meets recognized acceptable professional standards as determined by the board. For applicants graduating from doctoral level psychology training programs outside of the United States of America or Canada, applicants for licensure shall have completed a doctoral program in psychology that meets recognized acceptable professional standards as determined by the board * * *; and

(f) Has two (2) years of supervised experience in the same area of emphasis as the academic degree, which includes an internship and one (1) year of supervised post-doctoral

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experience, that meet the standards of training as defined by the board. Each year (or equivalent) shall be comprised of at least two thousand (2,000) hours of actual work, to include direct service, training and supervisory time. A pre-doctoral internship may be counted as one (1) of the two (2) years of experience * * *; and

(g) Demonstrates professional knowledge by passing a written (as used in this paragraph, the term "written" means either paper and pencil or computer administered or computerized testing) and oral examination in psychology prescribed by the board; except that upon examination of credentials, the board may, by unanimous consent, consider these credentials adequate evidence of professional knowledge.

Upon investigation of the application and other evidence submitted, the board shall, not less than thirty (30) days before the examination, notify each applicant that the application and evidence submitted is satisfactory and accepted or unsatisfactory and rejected; if rejected, the notice shall state the reasons for the rejection.

The place of examination shall be designated in advance by the board, and the examination shall be given at such time and place and under such supervision as the board may determine. The examination used by the board shall consist of written tests and oral tests, and shall fairly test the applicant's knowledge and application thereof in those areas deemed relevant by the board. All examinations serve the purpose of verifying that a candidate for licensure has acquired a basic core of knowledge in the discipline of psychology and can apply that knowledge to the problems confronted in the practice of psychology within the applicant's area of practice.

The board shall evaluate the results from both the written and oral examinations. The passing scores for the written and oral examinations shall be established by the board in its rules

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and regulations. If an applicant fails to receive a passing score on the entire examination, he or she may reapply and shall be allowed to take a later examination. An applicant who has failed two (2) successive examinations by the board may not reapply until after two (2) years from the date of the last examination failed. The board shall keep the written examination scores, and an accurate transcript of the questions and answers relating to the oral examinations, and the grade assigned to each answer thereof, as part of its records for at least two (2) years after the date of examination.

If any psychologist duly licensed under this chapter, by virtue of additional training and experience, becomes qualified to practice in a specialty other than that for which he or she was deemed competent at the time of initial licensing, and wishes to offer that service under the provisions of this chapter, he or she shall at the time of annual renewal of licenses submit additional credentials and be given the opportunity to demonstrate his or her knowledge and application thereof in areas deemed relevant to his or her specialty. The board may charge a reasonable fee for evaluating these credentials and the applicant's knowledge.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 416

Description: MS Limited Liability Company Act; extend repealer on fees.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2012

History of Actions:

- 1 02/13 (H) Referred To Ways and Means
- 2 02/29 (H) Title Suff Do Pass
- 3 03/06 (H) Passed *{Vote}*
- 4 03/07 (H) Transmitted To Senate
- 5 03/15 (S) Referred To Judiciary, Division A
- 6 03/27 (S) Title Suff Do Pass
- 7 04/04 (S) Passed *{Vote}*
- 8 04/05 (S) Transmitted To House
- 9 04/11 (S) Enrolled Bill Signed
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/17 Approved by Governor

Code Section: A 079-0029-1203

----- Additional Information -----

House Committee: Ways and Means

Senate Committee: Judiciary, Division A

Principal Author: Formby

2012 GENERAL LAWS OF MISSISSIPPI, HB 416

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Formby

To: Ways and Means

HOUSE BILL NO. 416

AN ACT TO AMEND SECTION 79-29-1203, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON LIMITED LIABILITY COMPANY FEES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 79-29-1203, Mississippi Code of 1972, is amended as follows:

79-29-1203. (1) No document required to be filed under this chapter shall be effective until the applicable fee required by this section is paid. The following fees shall be paid to and collected by the Secretary of State for the use of the State of Mississippi:

(a) Filing of Reservation of Limited Liability Company Name or Transfer of Reservation, Twenty-five Dollars (\$25.00).

(b) Filing of Change of Address of Registered Agent, Twenty-five Dollars (\$25.00).

(c) Filing of Resignation of Registered Agent, Five Dollars (\$5.00).

(d) Filing of Certificate of Formation, Fifty Dollars (\$50.00).

(e) Filing of Amendment to Certificate of Formation, Fifty Dollars (\$50.00).

(f) Filing of Certificate of Dissolution, Fifty Dollars (\$50.00).

(g) Filing of Application for Registration of Foreign Limited Liability Company, Two Hundred Fifty Dollars (\$250.00) and Ten Dollars (\$10.00) for each day, but not to exceed a total of One Thousand Dollars (\$1,000.00) for each year the foreign limited

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liability company transacts business in this state without a registration as a foreign limited liability company.

(h) Filing of Certificate of Correction, Fifty Dollars (\$50.00).

(i) Filing of Certificate of Cancellation of Registration of Foreign Limited Liability Company, Fifty Dollars (\$50.00).

(j) Filing of an Annual Report of Domestic Limited Liability Company, (no fee).

(k) Filing of an Annual Report of Foreign Limited Liability Company, to be deposited in the Elections Support Fund created in Section 23-15-5, Two Hundred Fifty Dollars (\$250.00).

(l) Certificate of Administrative Dissolution, (no fee).

(m) Filing of Application for Reinstatement Following Administrative Dissolution, Fifty Dollars (\$50.00).

(n) Certificate of Administrative Revocation of Authority to Transact Business, (no fee).

(o) Filing of Application for Reinstatement Following Administrative Revocation, One Hundred Dollars (\$100.00).

(p) Certificate of Reinstatement Following Administrative Dissolution, (no fee).

(q) Certificate of Reinstatement Following Administrative Revocation of Authority to Transact Business, (no fee).

(r) Filing of Certificate of Revocation of Dissolution, Twenty-five Dollars (\$25.00).

(s) Application for Certificate of Existence or Authorization, Twenty-five Dollars (\$25.00).

(t) Any other document required or permitted to be filed under this chapter, Twenty-five Dollars (\$25.00).

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(2) The Secretary of State shall collect a fee of Twenty-five Dollars (\$25.00) each time process is served on the Secretary of State under Section 79-29-101 et seq.

(3) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign limited liability company:

(a) One Dollar (\$1.00) a page for copying; and

(b) Ten Dollars (\$10.00) for the certificate.

(4) The Secretary of State may promulgate rules to:

(a) Reduce the filing fees set forth in this section or provide for discounts of fees as set forth in this section to encourage online filing of documents or for other reasons as determined by the Secretary of State; and

(b) Provide for documents to be filed and accepted on an expedited basis upon the request of the applicant. The Secretary of State may promulgate rules to provide for an additional reasonable filing fee to be paid by the applicant and collected by the Secretary of State for the expedited filing services.

(5) This section shall stand repealed on July 1, 2015.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 417

Description: Physical therapists; delete repealers on certain provisions relating to licensing and discipline of.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2012

History of Actions:

- 1 02/13 (H) Referred To Public Health and Human Services
- 2 02/23 (H) Title Suff Do Pass Comm Sub
- 3 03/08 (H) Committee Substitute Adopted
- 4 03/08 (H) Passed *(Vote)*
- 5 03/09 (H) Transmitted To Senate
- 6 03/16 (S) Referred To Public Health and Welfare
- 7 03/28 (S) Title Suff Do Pass
- 8 04/04 (S) Passed *(Vote)*
- 9 04/05 (S) Transmitted To House
- 10 04/11 (S) Enrolled Bill Signed
- 11 04/11 (H) Enrolled Bill Signed
- 12 04/17 Approved by Governor

Code Section: A 073-0023-0033, A 073-0023-0035, A 073-0023-0059

---- Additional Information ----

House Committee: Public Health and Human Services

Senate Committee: Public Health and Welfare

Principal Author: Formby

2012 GENERAL LAWS OF MISSISSIPPI, HB 417

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Formby

To: Public Health and Human
Services

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 417

AN ACT TO AMEND SECTIONS 73-23-33, 73-23-35 AND 73-23-59, MISSISSIPPI CODE OF 1972, TO DELETE THE REPEALERS ON THE STATUTES THAT PROVIDE DEFINITIONS FOR THE PHYSICAL THERAPY PRACTICE LAW, REQUIRE THAT PERSONS WHO USE CERTAIN TERMS AND ABBREVIATIONS IMPLYING PHYSICAL THERAPY SERVICES IN CONNECTION WITH THE PERSON'S NAME MUST BE LICENSED, REQUIRE A PRESCRIPTION OR REFERRAL FROM CERTAIN LICENSED HEALTH CARE PROVIDERS IN ORDER TO PERFORM PHYSICAL THERAPY SERVICES, AND PROVIDE GROUNDS FOR DISCIPLINARY ACTIONS AGAINST LICENSEES UNDER THE PHYSICAL THERAPY PRACTICE LAW; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-23-33, Mississippi Code of 1972, is amended as follows:

73-23-33. As used in this chapter unless the context or subject matter otherwise requires:

(a) "Physical therapy" or "physiotherapy," which terms are deemed identical and interchangeable, means the art and science of a health specialty concerned with the prevention of disability, and the physical rehabilitation for congenital or acquired physical or mental disabilities, resulting from or secondary to injury or disease. The "practice of physical therapy" means the practice of the health specialty and encompasses physical therapy evaluation, treatment planning, treatment administration, instruction and consultative services, including:

(i) Performing and interpreting tests and measurements as an aid to physical therapy treatment, for the purpose of correcting or alleviating any physical condition and to prevent the development of any physical or mental disability within the scope of physical therapy; and the performance of neuromuscular-skeletal tests and measurements as an aid in

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diagnosis, evaluation or determination of the existence of and the extent of any body malfunction;

(ii) Planning initial and subsequent treatment programs, on the basis of test findings; and

(iii) Administering treatment by therapeutic exercise, neurodevelopmental procedures, therapeutic massage, mechanical devices and therapeutic agents which employ the physical, chemical and other properties of air, water, heat, cold, electricity, sound and radiant energy for the purpose of correcting or alleviating any physical condition or preventing the development of any physical or mental disability. The use of roentgen rays and radium for any purpose, and the use of electricity for surgical purposes including cauterization, are not part of physical therapy;

(b) "Physical therapist" means a person licensed in this state to practice physical therapy as defined in this chapter, and whose license is in good standing;

(c) "Physical therapist assistant" means a health care worker who assists a physical therapist in the provision of physical therapy under the direct, on-site supervision of the physical therapist. The physical therapist assistant may perform physical therapy procedures and related tasks that have been selected and delegated by the supervising physical therapist, but shall not perform the following physical therapy activities: interpretation of referrals; physical therapy initial evaluation and reevaluation; identification, determination or modification of plans of care (including goals and treatment programs); final discharge assessment/evaluation or establishment of the discharge plan; or therapeutic techniques beyond the skill and knowledge of the physical therapist assistant;

(d) "Referral" means the written or oral designation of physical therapy services by a doctor of medicine, dentistry, osteopathy, podiatry or chiropractic, or by a physician assistant

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or nurse practitioner, holding a license in good standing; and the instruction therefor may be as detailed or as general as the doctor, physician assistant or nurse practitioner in his or her sound discretion deems necessary in the particular case;

(e) "Board" means the State Board of Physical Therapy established in Section 73-23-41;

(f) "Direct, on-site supervision" means face-to-face oversight by a licensed physical therapist at regular intervals, as prescribed in regulations adopted by the board, of the services provided to a patient by a licensed physical therapist assistant;

(g) "Direct supervision" means face-to-face oversight at regular intervals of a physical therapist issued a temporary license under Section 73-23-53(1) by a licensed physical therapist. Such direct supervision shall be in accordance with the regulations adopted by the board; however, a licensed physical therapist shall be authorized to have direct supervision over not more than four (4) physical therapist assistants at one time.

* * *

SECTION 2. Section 73-23-35, Mississippi Code of 1972, is amended as follows:

73-23-35. (1) A person, corporation, association or business entity shall not use in connection with that person's or party's name or the name or activity of the business the words "physical therapy," "physical therapist," "physiotherapy," "physiotherapist," "registered physical therapist," "doctor of physical therapy," "physical therapist assistant," the letters "PT," "DPT," "LPT," "RPT," "PTA," "LPTA," and/or any other words, abbreviations, or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied unless such services are provided by or under the direction of a physical therapist or physical therapist assistant, as the case may be, with a valid and current license issued pursuant to this chapter.

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It shall be unlawful to employ an unlicensed physical therapist or physical therapist assistant to provide physical therapy services.

(2) The board shall aid the state's attorneys of the various counties in the enforcement of the provisions of this chapter and the prosecution of any violations thereof. In addition to the criminal penalties provided by this chapter, the civil remedy of injunction shall be available to restrain and enjoin violations of any provisions of this chapter without proof of actual damages sustained by any person. For purposes of this chapter, the board, in seeking an injunction, need only show that the defendant violated subsection (1) of this section to establish irreparable injury or a likelihood of a continuation of the violation.

(3) A physical therapist licensed under this chapter shall not perform physical therapy services without a prescription or referral from a person licensed as a physician, dentist, osteopath, podiatrist, chiropractor, physician assistant or nurse practitioner. However, a physical therapist licensed under this chapter may perform physical therapy services without a prescription or referral under the following circumstances:

(a) To children with a diagnosed developmental disability pursuant to the patient's plan of care.

(b) As part of a home health care agency pursuant to the patient's plan of care.

(c) To a patient in a nursing home pursuant to the patient's plan of care.

(d) Related to conditioning or to providing education or activities in a wellness setting for the purpose of injury prevention, reduction of stress or promotion of fitness.

(e) (i) To an individual for a previously diagnosed condition or conditions for which physical therapy services are appropriate after informing the health care provider rendering the diagnosis. The diagnosis must have been made within the previous one hundred eighty (180) days. The physical therapist shall

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provide the health care provider who rendered the diagnosis with a plan of care for physical therapy services within the first fifteen (15) days of physical therapy intervention.

(ii) Nothing in this chapter shall create liability of any kind for the health care provider rendering the diagnosis under this paragraph (e) for a condition, illness or injury that manifested itself after the diagnosis, or for any alleged damages as a result of physical therapy services performed without a prescription or referral from a person licensed as a physician, dentist, osteopath, podiatrist, chiropractor, physician assistant or nurse practitioner, the diagnosis and/or prescription for physical therapy services having been rendered with reasonable care.

(4) Physical therapy services performed without a prescription or referral from a person licensed as a physician, dentist, osteopath, podiatrist, chiropractor, physician assistant or nurse practitioner shall not be construed to mandate coverage for physical therapy services under any health care plan, insurance policy, or workers' compensation or circumvent any requirement for preauthorization of services in accordance with any health care plan, insurance policy or workers' compensation.

(5) Nothing in this section shall restrict the Division of Medicaid from setting rules and regulations regarding the coverage of physical therapy services and nothing in this section shall amend or change the Division of Medicaid's schedule of benefits, exclusions and/or limitations related to physical therapy services as determined by state or federal regulations and state and federal law.

* * *

SECTION 3. Section 73-23-59, Mississippi Code of 1972, is amended as follows:

73-23-59. (1) Licensees subject to this chapter shall conduct their activities, services and practice in accordance with

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this chapter and any rules promulgated pursuant hereto. The board, upon satisfactory proof and in accordance with the provisions of this chapter and the regulations of the board, may suspend, revoke, or refuse to issue or renew any license hereunder, censure or reprimand any licensee, restrict or limit a license, and take any other action in relation to a license as the board may deem proper under the circumstances upon any of the following grounds:

(a) Negligence in the practice or performance of professional services or activities;

(b) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public in the course of professional services or activities;

(c) Perpetrating or cooperating in fraud or material deception in obtaining or renewing a license or attempting the same;

(d) Being convicted of any crime which has a substantial relationship to the licensee's activities and services or an essential element of which is misstatement, fraud or dishonesty;

(e) Having been convicted of or pled guilty to a felony in the courts of this state or any other state, territory or country. Conviction, as used in this paragraph, shall include a deferred conviction, deferred prosecution, deferred sentence, finding or verdict of guilt, an admission of guilty, or a plea of nolo contendere;

(f) Engaging in or permitting the performance of unacceptable services personally or by others working under the licensee's supervision due to the licensee's deliberate or negligent act or acts or failure to act, regardless of whether actual damage or damages to the public is established;

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(g) Continued practice although the licensee has become unfit to practice as a physical therapist or physical therapist assistant due to: (i) failure to keep abreast of current professional theory or practice; or (ii) physical or mental disability; the entry of an order or judgment by a court of competent jurisdiction that a licensee is in need of mental treatment or is incompetent shall constitute mental disability; or (iii) addiction or severe dependency upon alcohol or other drugs which may endanger the public by impairing the licensee's ability to practice;

(h) Having disciplinary action taken against the licensee's license in another state;

(i) Making differential, detrimental treatment against any person because of race, color, creed, sex, religion or national origin;

(j) Engaging in lewd conduct in connection with professional services or activities;

(k) Engaging in false or misleading advertising;

(l) Contracting, assisting or permitting unlicensed persons to perform services for which a license is required under this chapter;

(m) Violation of any probation requirements placed on a license by the board;

(n) Revealing confidential information except as may be required by law;

(o) Failing to inform clients of the fact that the client no longer needs the services or professional assistance of the licensee;

(p) Charging excessive or unreasonable fees or engaging in unreasonable collection practices;

(q) For treating or attempting to treat ailments or other health conditions of human beings other than by physical therapy as authorized by this chapter;

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(r) Except as authorized in Section 73-23-35(3), for applying or offering to apply physical therapy, exclusive of initial evaluation or screening and exclusive of education or consultation for the prevention of physical and mental disability within the scope of physical therapy, other than upon the referral of a licensed physician, dentist, osteopath, podiatrist, chiropractor, physician assistant or nurse practitioner; or for acting as a physical therapist assistant other than under the direct, on-site supervision of a licensed physical therapist;

(s) Failing to adhere to the recognized standards of ethics of the physical therapy profession as established by rules of the board;

(t) Failing to complete continuing competence requirements as established by board rule;

(u) Failing to supervise physical therapist assistants in accordance with this chapter and/or board rules;

(v) Engaging in sexual misconduct. For the purpose of this paragraph, sexual misconduct includes, but is not necessarily limited to:

(i) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual, while a physical therapist or physical therapist assistant/patient relationship exists.

(ii) Making sexual advances, requesting sexual favors or engaging in other verbal conduct or physical contact of a sexual nature with patients or clients.

(iii) Intentionally viewing a completely or partially disrobed patient in the course of treatment if the viewing is not related to patient diagnosis or treatment under current practice standards;

(w) The erroneous issuance of a license to any person;

(x) Violations of any provisions of this chapter, board rules or regulations or a written order or directive of the board;

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(y) Failing to maintain adequate patient records. For the purposes of this paragraph, "adequate patient records" means legible records that contain at minimum sufficient information to identify the patient, an evaluation of objective findings, a diagnosis, a plan of care, a treatment record and a discharge plan;

(z) Failing to report to the board any unprofessional, incompetent or illegal acts that appear to be in violation of this law or any rules established by the board.

(2) The board may order a licensee to submit to a reasonable physical or mental examination if the licensee's physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

(3) Failure to comply with a board order to submit to a physical or mental examination shall render a licensee subject to the summary suspension procedures described in Section 73-23-64.

(4) In addition to the reasons specified in subsection (1) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

* * *

SECTION 4. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 422

Description: Community Service Revolving Fund; extend repealer on.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: June 30, 2012

History of Actions:

- 1 02/13 (H) Referred To Corrections
- 2 02/27 (H) Title Suff Do Pass
- 3 03/08 (H) Passed {Vote}
- 4 03/09 (H) Transmitted To Senate
- 5 03/16 (S) Referred To Corrections
- 6 03/27 (S) Title Suff Do Pass
- 7 04/05 (S) Passed {Vote}
- 8 04/09 (S) Transmitted To House
- 9 04/11 (H) Enrolled Bill Signed
- 10 04/12 (S) Enrolled Bill Signed
- 11 04/18 Approved by Governor

Code Section: A 047-0007-0049

----- Additional Information -----

House Committee: Corrections

Senate Committee: Corrections

Principal Author: Formby

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Formby

To: Corrections

HOUSE BILL NO. 422

AN ACT TO AMEND SECTION 47-7-49, MISSISSIPPI CODE OF 1972, WHICH CREATES THE COMMUNITY SERVICE REVOLVING FUND, PROVIDES THE FEE THAT IS PAID BY OFFENDERS WHO ARE ON PROBATION, PAROLE OR UNDER FIELD SUPERVISION OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS, TO EXTEND THE REPEAL DATE ON THIS SECTION FROM JUNE 30, 2012, TO JUNE 30, 2015; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 47-7-49, Mississippi Code of 1972, is amended as follows:

47-7-49. (1) Any offender on probation, parole, earned-release supervision, post-release supervision, earned probation or any other offender under the field supervision of the Community Services Division of the department shall pay to the department the sum of Fifty-five Dollars (\$55.00) per month by certified check or money order unless a hardship waiver is granted. An offender shall make the initial payment within thirty (30) days after being released from imprisonment unless a hardship waiver is granted. A hardship waiver may be granted by the sentencing court or the Department of Corrections. A hardship waiver may not be granted for a period of time exceeding ninety (90) days. The commissioner or his designee shall deposit Fifty Dollars (\$50.00) of each payment received into a special fund in the State Treasury, which is hereby created, to be known as the Community Service Revolving Fund. Expenditures from this fund shall be made for: (a) the establishment of restitution and satellite centers; and (b) the establishment, administration and operation of the department's Drug Identification Program and the intensive and field supervision program. The Fifty Dollars

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(\$50.00) may be used for salaries and to purchase equipment, supplies and vehicles to be used by the Community Services Division in the performance of its duties. Expenditures for the purposes established in this section may be made from the fund upon requisition by the commissioner, or his designee.

Of the remaining amount, Three Dollars (\$3.00) of each payment shall be deposited into the Crime Victims' Compensation Fund created in Section 99-41-29, and Two Dollars (\$2.00) shall be deposited into the Training Revolving Fund created pursuant to Section 47-7-51. When a person is convicted of a felony in this state, in addition to any other sentence it may impose, the court may, in its discretion, order the offender to pay a state assessment not to exceed the greater of One Thousand Dollars (\$1,000.00) or the maximum fine that may be imposed for the offense, into the Crime Victims' Compensation Fund created pursuant to Section 99-41-29.

Any federal funds made available to the department for training or for training facilities, equipment or services shall be deposited into the Correctional Training Revolving Fund created in Section 47-7-51. The funds deposited in this account shall be used to support an expansion of the department's training program to include the renovation of facilities for training purposes, purchase of equipment and contracting of training services with community colleges in the state.

No offender shall be required to make this payment for a period of time longer than ten (10) years.

(2) The offender may be imprisoned until the payments are made if the offender is financially able to make the payments and the court in the county where the offender resides so finds, subject to the limitations hereinafter set out. The offender shall not be imprisoned if the offender is financially unable to make the payments and so states to the court in writing, under oath, and the court so finds.

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(3) This section shall stand repealed from and after June 30, 2015.

SECTION 2. This act shall take effect and be in force from and after June 30, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 434

Description: Insurance Commissioner; revise requirement to examine certain entities from once every 3 years to 5 years.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/13 (H) Referred To Insurance
- 2 02/21 (H) Title Suff Do Pass
- 3 02/23 (H) Passed *[Vote]*
- 4 02/24 (H) Transmitted To Senate
- 5 02/24 (S) Referred To Insurance
- 6 03/21 (S) Title Suff Do Pass
- 7 04/04 (S) Passed *[Vote]*
- 8 04/05 (S) Transmitted To House
- 9 04/11 (S) Enrolled Bill Signed
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/17 Approved by Governor

Code Section: A 083-0005-0205, A 083-0029-0045, A 083-0041-0337, A 083-0049-0027

----- Additional Information -----

House Committee: Insurance

Senate Committee: Insurance

Principal Author: Chism

2012 GENERAL LAWS OF MISSISSIPPI, HB 434

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Chism

To: Insurance

HOUSE BILL NO. 434

AN ACT TO AMEND SECTION 83-5-205, MISSISSIPPI CODE OF 1972, TO REQUIRE AN EXAMINATION OF EVERY INSURER LICENSED IN THIS STATE NOT LESS THAN EVERY FIVE YEARS; TO AMEND SECTION 83-29-45, MISSISSIPPI CODE OF 1972, TO REQUIRE AN EXAMINATION OF DOMESTIC SOCIETIES LICENSED IN THIS STATE NOT LESS THAN EVERY FIVE YEARS; TO AMEND SECTION 83-41-337, MISSISSIPPI CODE OF 1972, TO REQUIRE AN EXAMINATION OF HEALTH MAINTENANCE ORGANIZATIONS LICENSED IN THIS STATE NOT LESS THAN EVERY FIVE YEARS; TO AMEND SECTION 83-49-27, MISSISSIPPI CODE OF 1972, TO REQUIRE AN EXAMINATION OF EVERY PREPAID LEGAL SERVICES PLAN LICENSED IN THIS STATE NOT LESS THAN EVERY FIVE YEARS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-5-205, Mississippi Code of 1972, is amended as follows:

83-5-205. (1) The commissioner or any of his examiners may conduct an examination under Sections 83-5-201 through 83-5-217 of any company as often as the commissioner, in his or her sole discretion, deems appropriate but, at a minimum, shall conduct an examination of every insurer licensed in this state not less frequently than once every five (5) years. In scheduling and determining the nature, scope and frequency of the examinations, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the Examiners' Handbook adopted by the National Association of Insurance Commissioners and in effect when the commissioner exercises discretion under this section.

(2) For purposes of completing an examination of any company under Sections 83-5-201 through 83-5-217, the commissioner may examine or investigate any person, or the business of any person,

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insofar as such examination or investigation, in the sole discretion of the commissioner, is necessary or material to the examination of the company.

(3) In lieu of an examination under Sections 83-5-201 through 83-5-217 of any foreign or alien insurer licensed in this state, the commissioner may accept an examination report on the company as prepared by the insurance department for the company's state of domicile or port-of-entry state until January 1, 1994. Thereafter, such reports may only be accepted if (a) the insurance department was at the time of the examination accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program; or (b) the examination is performed under the supervision of an accredited insurance department or with the participation of one or more examiners who are employed by such an accredited state insurance department and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.

SECTION 2. Section 83-29-45, Mississippi Code of 1972, is amended as follows:

83-29-45. The Commissioner of Insurance, or any person or persons he may appoint, shall have the power of visitation and examination into the affairs of any domestic society. They shall have free access to all the books, papers, and documents that relate to the business of the society.

The expenses of such examination shall be paid by the society examined, upon statement furnished by the Commissioner of Insurance, and the examination shall be made as often as the commissioner, in his sole discretion, deems appropriate but, at a minimum, at least once in every five (5) years * * *

Whenever after examination the Commissioner of Insurance is satisfied that any domestic society has failed to comply with any

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provisions of this chapter, or is exceeding its powers, or is not carrying out its contracts in good faith, or is transacting business fraudulently, or whenever any domestic society, after the existence of one (1) year or more, shall have a membership of less than four hundred (400) or shall determine to discontinue business, the Commissioner of Insurance may present the facts relating thereto to the Attorney General, who shall, if he deem the circumstances warrant, commence an action in quo warranto in a court of competent jurisdiction. Such court shall thereupon notify the officers of such society of a hearing, and if it shall then appear that such society should be closed, said society shall be enjoined from carrying on any further business; and some person shall be appointed receiver of such society and shall proceed at once to take possession of the books, papers, monies, and other assets of the society and shall forthwith, under the direction of the court, proceed to close the affairs of the society and to distribute its funds to those entitled thereto.

SECTION 3. Section 83-41-337, Mississippi Code of 1972, is amended as follows:

83-41-337. (1) The commissioner shall make an examination of the affairs of any health maintenance organization and providers with whom such organization has contracts, agreements or other arrangements as often as is reasonably necessary for the protection of the interests of the people of this state but not less frequently than once every five (5) years at the expense of the health maintenance organization and provider with whom the health maintenance organization has contracted according to relevant statutes which govern examinations of insurance companies under the insurance laws of this state.

(2) The State Health Officer may make an examination concerning the quality assurance program of the health maintenance organization and of any providers with whom such organization has contracts, agreements or other arrangements as often as is

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reasonably necessary for the protection of the interests of the people of this state but not less frequently than once every five (5) years.

(3) Every health maintenance organization and provider shall submit its books and records for such examinations and in every way facilitate the completion of the examination. For the purpose of examinations, the commissioner and the State Health Officer may administer oaths to, and examine the officers and agents of, the health maintenance organization and the principals of providers concerning their business as per existing insurance laws, rules and regulations.

(4) The expenses of examinations under this section shall be assessed against the health maintenance organization being examined as per existing laws for examination of insurance companies or the State Health Officer for whom the examination is being conducted.

(5) In lieu of such examination, the commissioner or State Health Officer may accept the report of an examination made by the Commissioner of Insurance or the State Health Officer of another state.

SECTION 4. Section 83-49-27, Mississippi Code of 1972, is amended as follows:

83-49-27. (1) The commissioner shall require every sponsor of a prepaid legal services plan to retain at the address shown on its license the plan-related books, records, accounts and vouchers for a term of five (5) years beginning immediately after the completion of the transaction and kept in such manner that the commissioner or his authorized representatives may readily verify its annual statements and determine whether the plan and the sponsor are in compliance with the law.

(2) The commissioner, or his designee, as often as the commissioner, in his sole discretion, deems appropriate but, at a minimum, at least every five (5) years shall visit each sponsor of

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a prepaid legal services plan and examine into such of its affairs as relate to the business of operating the plan. The commissioner shall have free access to all plan-related books, records, accounts and vouchers of the plan and may summon and examine under oath officers, trustees, agents and employees of the plan and any other persons regarding the affairs and condition of the plan. Provided, that no information, written or oral, need be supplied under this or any other subsection of this chapter in violation of the attorney-client privilege as it is construed by the courts of this state.

(3) Every sponsor of a plan being examined, its officers, employees and agents shall produce and make freely accessible to the commissioner the accounts, records, documents and files in its possession or control relating to the subject of the examination. Such officers, employees and agents shall facilitate such examination and aid the examiners as far as it is in their power in making the examination.

(4) (a) The commissioner shall make a full written report of each examination made by him containing only facts ascertained from the accounts, records and documents examined and from the sworn testimony of witnesses.

(b) The commissioner shall furnish a copy of the proposed report to the sponsor of the plan examined not less than twenty (20) days prior to filing the report. If such plan so requests in writing within such twenty-day period, or such longer period as the commissioner may grant, the commissioner shall grant a hearing with respect to the report, and shall not so file the report until after the hearing and such modifications have been made therein as the commissioner may deem proper.

(c) The commissioner may withhold from public inspection the report of any examination or investigation for so long as he deems it to be in the public interest or necessary to protect the plan examined from unwarranted injury.

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(d) After the report has been filed, the commissioner may publish the report or the results thereof in one or more newspapers published in this state if he should deem it to be in the public interest.

(5) The sponsor of the plan so examined shall pay, at the direction of the commissioner, all the actual travel and living expenses of such examination. When the examination is made by an examiner who is not a regular employee of the department, the sponsor examined shall pay the proper charges for the services of the examiner and his assistants in an amount approved by the commissioner. A consolidated account for the examination shall be filed by the examiner with the commissioner. No sponsor or other entity shall pay and no examiner shall accept any additional emolument on account of any examination. When the examination is conducted, in whole or in part, by regular salaried employees of the Department of Insurance * * *, payment for such services and proper expenses shall be made by the sponsor examined to the commissioner, and such payment shall be deposited with the State Treasurer to the account of the Department of Insurance * * *.

SECTION 5. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 440

Description: State inmate cost per day report; require PEER to produce every two years instead of annually.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/13 (H) Referred To Corrections
- 2 02/27 (H) Title Suff Do Pass
- 3 03/08 (H) Passed Vote
- 4 03/09 (H) Transmitted To Senate
- 5 03/16 (S) Referred To Corrections;Accountability, Efficiency, Transparency
- 6 03/27 (S) DR - TSDP: CR To AC
- 7 04/02 (S) Title Suff Do Pass
- 8 04/05 (S) Passed Vote
- 9 04/09 (S) Transmitted To House
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/12 (S) Enrolled Bill Signed
- 12 04/18 Approved by Governor

Code Section: A 047-0005-1211

----- Additional Information -----

House Committee: Corrections

Senate Committee: Corrections, Accountability, Efficiency, Transparency

Principal Author: Bailey

2012 GENERAL LAWS OF MISSISSIPPI, HB 440

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Bailey

To: Corrections

HOUSE BILL NO. 440

AN ACT TO AMEND SECTION 47-5-1211, MISSISSIPPI CODE OF 1972, TO REQUIRE THE PEER COMMITTEE TO PRODUCE AN INMATE COST PER DAY REPORT EVERY TWO YEARS INSTEAD OF ANNUALLY; TO REQUIRE THE PEER COMMITTEE AND THE DEPARTMENT OF CORRECTIONS TO DEVELOP A CURRENT COST-BASED MODEL FOR CERTAIN PURPOSES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 47-5-1211, Mississippi Code of 1972, is amended as follows:

47-5-1211. (1) A contract for private correctional facilities or services shall not be entered into unless the contractor has demonstrated that it has:

(a) The qualifications, experience and management personnel necessary to carry out the terms of the contract.

(b) The ability to expedite the siting, design and construction of correctional facilities.

(c) The ability to comply with applicable laws, court orders and national correctional standards.

(d) Demonstrated history of successful operation and management of other correctional facilities.

(2) A facility shall at all times comply with all federal and state laws, and all applicable court orders.

(3) (a) No contract for private incarceration shall be entered into unless the cost of the private operation, including the state's cost for monitoring the private operation, offers a cost savings of at least ten percent (10%) to the Department of Corrections for at least the same level and quality of service offered by the Department of Corrections.

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(b) Beginning in 2012, and every two (2) years thereafter, the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) shall contract * * * with a certified public accounting firm to establish a state inmate cost per day using financial information of the Department of Corrections for the most recently completed fiscal year. The state inmate cost per day shall be certified as required by this section. The certified cost shall be used as the basis for measuring the validity of the ten percent (10%) savings of the contractor costs.

(c) Prior to engaging a certified public accountant, the PEER Committee, in conjunction with the Department of Corrections, shall develop a current cost-based model that will serve as a basis for the report produced as authorized by this section.

(4) The rates and benefits for correctional services shall be negotiated based upon American Correction Association standards, state law and court orders.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 450

Description: Dept. of Archives and History; authorize DFA to extinguish preservation easement deed on behalf of for certain historic properties.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 02/13 (H) Referred To Public Property
- 2 02/21 (H) Title Suff Do Pass
- 3 02/27 (H) Passed {Vote}
- 4 02/28 (H) Transmitted To Senate
- 5 02/29 (S) Referred To Public Property
- 6 03/29 (S) Title Suff Do Pass
- 7 04/04 (S) Passed {Vote}
- 8 04/05 (S) Transmitted To House
- 9 04/11 (S) Enrolled Bill Signed
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/17 Approved by Governor

----- **Additional Information** -----

House Committee: Public Property

Senate Committee: Public Property

Principal Author: Bain

Additional Authors: Arnold, Carpenter, Smith (39th)

2012 GENERAL LAWS OF MISSISSIPPI, HB 450

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Bain, Arnold, Carpenter, To: Public Property
Smith (39th)

HOUSE BILL NO. 450

AN ACT TO AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMINISTRATION, ACTING ON BEHALF OF THE DEPARTMENT OF ARCHIVES AND HISTORY, TO EXTINGUISH THE PRESERVATION DEED OF EASEMENT ON THE HISTORIC CORINTH MACHINERY BUILDING, LOCATED IN THE CITY OF CORINTH, ALCORN COUNTY, MISSISSIPPI, SUBJECT TO CERTAIN CONDITIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Department of Archives and History, is authorized to extinguish the preservation deed of easement on the historic Corinth Machinery Building, located in the City of Corinth, Alcorn County, Mississippi, subject to the conditions of subsection (2). The easement is more particularly described as having been:

Granted on May 17, 2002, as an easement for the preservation of the Corinth Machinery Building, granted in perpetuity to the Mississippi Department of Archives and History by one, David Campbell and one, Chris Chain, Partners d/b/a Camp-Chain, a Partnership, their successors and assigns, for the purpose of protecting the public's investment in the preservation of said building.

Said easement being granted to the Mississippi Department of Archives and History in consideration of a Certified Local Government grant in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) awarded to the City of Corinth and Camp-Chain Partnership for repairs to the Corinth Machinery Building; and a second grant to

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the City of Corinth in 2010 in the amount of Two Thousand One Hundred Sixty Dollars (\$2,160.00) for additional investigation of said historic structure; and

(2) The preservation deed of easement on the historic Corinth Machinery Building property described in subsection (1) of this section shall not be extinguished by the Department of Finance and Administration, acting on behalf of the Mississippi Department of Archives and History, unless and until the Old Corinth Machinery, LLC, repays the publicly funded grant in the amount of Four Thousand Six Hundred Sixty Dollars (\$4,660.00), with interest, to the Mississippi Landmark Grant Fund for the benefit and preservation of other historic properties.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

House Bill 451

Description: Unemployment Compensation Law; exclude direct sellers and certain services of persons delivering newspapers.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/13 (H) Referred To Workforce Development
- 2 02/23 (H) Title Suff Do Pass Comm Sub
- 3 03/07 (H) Committee Substitute Adopted
- 4 03/07 (H) Passed *(Vote)*
- 5 03/09 (H) Transmitted To Senate
- 6 03/16 (S) Referred To Insurance;Finance
- 7 03/21 (S) DR - TSDP: IN To FI
- 8 04/03 (S) Title Suff Do Pass
- 9 04/05 (S) Passed *(Vote)*
- 10 04/09 (S) Transmitted To House
- 11 04/11 (H) Enrolled Bill Signed
- 12 04/12 (S) Enrolled Bill Signed
- 13 04/18 Approved by Governor

Code Section: A 071-0005-0011

---- Additional Information ----

House Committee: Workforce Development

Senate Committee: Insurance, Finance

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Bounds

To: Workforce Development

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 451

AN ACT TO AMEND SECTION 71-5-11, MISSISSIPPI CODE OF 1972, TO PROVIDE A DIRECT SELLER EXEMPTION FROM THE APPLICABILITY OF THE UNEMPLOYMENT COMPENSATION LAW; TO EXCLUDE FROM THE TERM "EMPLOYMENT" UNDER THE MISSISSIPPI EMPLOYMENT SECURITY LAW, CERTAIN SERVICES PERFORMED BY AN INDIVIDUAL IN THE DELIVERY OR DISTRIBUTION OF NEWSPAPERS OR SHOPPING NEWS REGARDLESS OF THE INDIVIDUAL'S AGE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 71-5-11, Mississippi Code of 1972, is amended as follows:

71-5-11. As used in this chapter, unless the context clearly requires otherwise:

A. "Base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year.

B. "Benefits" means the money payments payable to an individual, as provided in this chapter, with respect to his unemployment.

C. "Benefit year" with respect to any individual means the period beginning with the first day of the first week with respect to which he first files a valid claim for benefits, and ending with the day preceding the same day of the same month in the next calendar year; and, thereafter, the period beginning with the first day of the first week with respect to which he next files his valid claim for benefits, and ending with the day preceding the same day of the same month in the next calendar year. Any claim for benefits made in accordance with Section 71-5-515 shall be deemed to be a "valid claim" for purposes of this subsection if

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the individual has been paid the wages for insured work required under Section 71-5-511(e).

D. "Contributions" means the money payments to the State Unemployment Compensation Fund required by this chapter.

E. "Calendar quarter" means the period of three (3) consecutive calendar months ending on March 31, June 30, September 30, or December 31.

F. "Department" or "commission" means the Mississippi Department of Employment Security, Office of the Governor.

G. "Executive director" means the Executive Director of the Mississippi Department of Employment Security, Office of the Governor, appointed under Section 71-5-107.

H. "Employing unit" means this state or another state or any instrumentalities or any political subdivisions thereof or any of their instrumentalities or any instrumentality of more than one (1) of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions, any Indian tribe as defined in Section 3306(u) of the Federal Unemployment Tax Act (FUTA), which includes any subdivision, subsidiary or business enterprise wholly owned by such Indian tribe, any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or had in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two (2) or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this chapter. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all

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purposes of this chapter, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work. All individuals performing services in the employ of an elected fee-paid county official, other than those related by blood or marriage within the third degree computed by the rule of the civil law to such fee-paid county official, shall be deemed to be employed by such county as the employing unit for all the purposes of this chapter. For purposes of defining an "employing unit" which shall pay contributions on remuneration paid to individuals, if two (2) or more related corporations concurrently employ the same individual and compensate such individual through a common paymaster which is one (1) of such corporations, then each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual such amounts actually disbursed to such individual by another of such corporations.

I. "Employer" means:

(1) Any employing unit which,

(a) In any calendar quarter in either the current or preceding calendar year paid for service in employment wages of One Thousand Five Hundred Dollars (\$1,500.00) or more, except as provided in paragraph (9) of this subsection, or

(b) For some portion of a day in each of twenty (20) different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year had in employment at least one (1) individual (irrespective of whether the same individual was in employment in each such day), except as provided in paragraph (9) of this subsection;

(2) Any employing unit for which service in employment, as defined in subsection J(3) of this section, is performed;

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(3) Any employing unit for which service in employment, as defined in subsection J(4) of this section, is performed;

(4) (a) Any employing unit for which agricultural labor, as defined in subsection J(6) of this section, is performed;

(b) Any employing unit for which domestic service in employment, as defined in subsection J(7) of this section, is performed;

(5) Any individual or employing unit which acquired the organization, trade, business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this chapter;

(6) Any individual or employing unit which acquired its organization, trade, business, or substantially all the assets thereof, from another employing unit, if the employment record of the acquiring individual or employing unit subsequent to such acquisition, together with the employment record of the acquired organization, trade, or business prior to such acquisition, both within the same calendar year, would be sufficient to constitute an employing unit as an employer subject to this chapter under paragraph (1) or (3) of this subsection;

(7) Any employing unit which, having become an employer under paragraph (1), (3), (5) or (6) of this subsection or under any other provisions of this chapter, has not, under Section 71-5-361, ceased to be an employer subject to this chapter;

(8) For the effective period of its election pursuant to Section 71-5-361(3), any other employing unit which has elected to become subject to this chapter;

(9) (a) In determining whether or not an employing unit for which service other than domestic service is also performed is an employer under paragraph (1) or (4)(a) of this subsection, the wages earned or the employment of an employee performing domestic service, shall not be taken into account;

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(b) In determining whether or not an employing unit for which service other than agricultural labor is also performed is an employer under paragraph (1) or (4)(b) of this subsection, the wages earned or the employment of an employee performing services in agricultural labor, shall not be taken into account. If an employing unit is determined an employer of agricultural labor, such employing unit shall be determined an employer for purposes of paragraph (1) of this subsection;

(10) All entities utilizing the services of any employee leasing firm shall be considered the employer of the individuals leased from the employee leasing firm. Temporary help firms shall be considered the employer of the individuals they provide to perform services for other individuals or organizations.

J. "Employment" means and includes:

(1) Any service performed, which was employment as defined in this section and, subject to the other provisions of this subsection, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(2) Services performed for remuneration for a principal:

(a) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry cleaning services;

(b) As a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, a principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operator of hotels, restaurants, or other similar

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establishments for merchandise for resale or supplies for use in their business operations.

However, for purposes of this subsection, the term "employment" shall include services described in subsection J(2)(a) and (b) of this section, only if:

(i) The contract of service contemplates that substantially all of the services are to be performed personally by such individual;

(ii) The individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and

(iii) The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

(3) Service performed in the employ of this state or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one (1) of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions or any Indian tribe as defined in Section 3306(u) of the Federal Unemployment Tax Act (FUTA), which includes any subdivision, subsidiary or business enterprise wholly owned by such Indian tribe; however, such service is excluded from "employment" as defined in the Federal Unemployment Tax Act by Section 3306(c)(7) of that act and is not excluded from "employment" under subsection J(5) of this section.

(4) (a) Services performed in the employ of a religious, charitable, educational, or other organization, but only if the service is excluded from "employment" as defined in the Federal Unemployment Tax Act, 26 USCS Section 3306(c)(8), and

(b) The organization had four (4) or more individuals in employment for some portion of a day in each of

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twenty (20) different weeks, whether or not such weeks were consecutive, within the current or preceding calendar year, regardless of whether they were employed at the same moment of time.

(5) For the purposes of subsection J(3) and (4) of this section, the term "employment" does not apply to service performed:

(a) In the employ of:

(i) A church or convention or association of churches; or

(ii) An organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

(b) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, or by a member of a religious order in the exercise of duties required by such order; or

(c) In the employ of a governmental entity referred to in subsection J(3), if such service is performed by an individual in the exercise of duties:

(i) As an elected official;

(ii) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision or a member of an Indian tribal council;

(iii) As a member of the State National Guard or Air National Guard;

(iv) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(v) In a position which, under or pursuant to the laws of this state or laws of an Indian tribe, is designated as:

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1. A major nontenured policy-making or advisory position, or

2. A policy-making or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week; or

(d) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or

(e) By an inmate of a custodial or penal institution; or

(f) As part of an unemployment work-relief or work-training program assisted or financed, in whole or in part, by any federal agency or agency of a state or political subdivision thereof or of an Indian tribe, by an individual receiving such work relief or work training, unless coverage of such service is required by federal law or regulation.

(6) Service performed by an individual in agricultural labor as defined in paragraph (15)(a) of this subsection when:

(a) Such service is performed for a person who:

(i) During any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of Twenty Thousand Dollars (\$20,000.00) or more to individuals employed in agricultural labor, or

(ii) For some portion of a day in each of twenty (20) different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten (10) or more individuals,

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regardless of whether they were employed at the same moment of time.

(b) For the purposes of subsection J(6) any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of such crew leader:

(i) If such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

(ii) If such individual is not an employee of such other person within the meaning of subsection J(1).

(c) For the purpose of subsection J(6), in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph (6)(b) of this subsection:

(i) Such other person and not the crew leader shall be treated as the employer of such individual; and

(ii) Such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his own behalf or on behalf of such other person) for the service in agricultural labor performed for such other person.

(d) For the purposes of subsection J(6) the term "crew leader" means an individual who:

(i) Furnishes individuals to perform service in agricultural labor for any other person;

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(ii) Pays (either on his own behalf or on behalf of such other person) the individuals so furnished by him for the service in agricultural labor performed by them; and

(iii) Has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person.

(7) The term "employment" shall include domestic service in a private home, local college club or local chapter of a college fraternity or sorority performed for an employing unit which paid cash remuneration of One Thousand Dollars (\$1,000.00) or more in any calendar quarter in the current or the preceding calendar year to individuals employed in such domestic service. For the purpose of this subsection, the term "employment" does not apply to service performed as a "sitter" at a hospital in the employ of an individual.

(8) An individual's entire service, performed within or both within and without this state, if:

(a) The service is localized in this state; or

(b) The service is not localized in any state but some of the service is performed in this state; and

(i) The base of operations or, if there is no base of operations, the place from which such service is directed or controlled is in this state; or

(ii) The base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(9) Services not covered under paragraph (8) of this subsection and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this chapter if the individual performing such services is a resident

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of this state and the department approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this chapter.

(10) Service shall be deemed to be localized within a state if:

(a) The service is performed entirely within such state; or

(b) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions.

(11) The services of an individual who is a citizen of the United States, performed outside the United States (except in Canada), in the employ of an American employer (other than service which is deemed "employment" under the provisions of paragraph (8), (9) or (10) of this subsection or the parallel provisions of another state's law), if:

(a) The employer's principal place of business in the United States is located in this state; or

(b) The employer has no place of business in the United States; but

(i) The employer is an individual who is a resident of this state; or

(ii) The employer is a corporation which is organized under the laws of this state; or

(iii) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one (1) other state; or

(c) None of the criteria of subparagraphs (a) and (b) of this paragraph are met but the employer has elected

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coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state; or

(d) An "American employer," for purposes of this paragraph, means a person who is:

(i) An individual who is a resident of the United States; or

(ii) A partnership if two-thirds ($2/3$) or more of the partners are residents of the United States; or

(iii) A trust if all of the trustees are residents of the United States; or

(iv) A corporation organized under the laws of the United States or of any state.

(12) All services performed by an officer or member of the crew of an American vessel on or in connection with such vessel, if the operating office from which the operations of such vessel operating on navigable waters within, or within and without, the United States are ordinarily and regularly supervised, managed, directed and controlled, is within this state, notwithstanding the provisions of subsection J(8).

(13) Service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund, or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, 26 USCS Section 3301 et seq., is required to be covered under this chapter, notwithstanding any other provisions of this subsection.

(14) Services performed by an individual for wages shall be deemed to be employment subject to this chapter unless and until it is shown to the satisfaction of the department that such individual has been and will continue to be free from control and direction over the performance of such services both under his contract of service and in fact; and the relationship of employer

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and employee shall be determined in accordance with the principles of the common law governing the relation of master and servant.

(15) The term "employment" shall not include:

(a) Agricultural labor, except as provided in subsection J(6) of this section. The term "agricultural labor" includes all services performed:

(i) On a farm or in a forest in the employ of any employing unit in connection with cultivating the soil, in connection with cutting, planting, deadening, marking or otherwise improving timber, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, fur-bearing animals and wildlife;

(ii) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(iii) In connection with the production or harvesting of naval stores products or any commodity defined in the Federal Agricultural Marketing Act, 12 USCS Section 1141j(g), or in connection with the raising or harvesting of mushrooms, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(iv) (A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity;

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but only if such operator produced more than one-half (1/2) of the commodity with respect to which such service is performed;

(B) In the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in subitem (A), but only if such operators produced more than one-half (1/2) of the commodity with respect to which such service is performed;

(C) The provisions of subitems (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption;

(v) On a farm operated for profit if such service is not in the course of the employer's trade or business;

(vi) As used in paragraph (15)(a) of this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(b) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in subsection J(7) of this section, or service performed as a "sitter" at a hospital in the employ of an individual.

(c) Casual labor not in the usual course of the employing unit's trade or business.

(d) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) in the employ of his father or mother.

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(e) Service performed in the employ of the United States government or of an instrumentality wholly owned by the United States; except that if the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, then to the extent permitted by Congress and from and after the date as of which such permission becomes effective, all of the provisions of this chapter shall be applicable to such instrumentalities and to services performed by employees for such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers and employing units. If this state should not be certified under the Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any year, then the payment required by such instrumentality with respect to such year shall be deemed to have been erroneously collected and shall be refunded by the department from the fund in accordance with the provisions of Section 71-5-383.

(f) Service performed in the employ of an "employer" as defined by the Railroad Unemployment Insurance Act, 45 USCS Section 351(a), or as an "employee representative" as defined by the Railroad Unemployment Insurance Act, 45 USCS Section 351(f), and service with respect to which unemployment compensation is payable under an unemployment compensation system for maritime employees, or under any other unemployment compensation system established by an act of Congress; however, the department is authorized and directed to enter into agreements with the proper agencies under such act or acts of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in Section 71-5-117 for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such act or acts of Congress or who have, after acquiring potential rights to

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unemployment compensation under such act or acts of Congress, acquired rights to benefits under this chapter.

(g) Service performed in any calendar quarter in the employ of any organization exempt from income tax under the Internal Revenue Code, 26 USCS Section 501(a) (other than an organization described in 26 USCS Section 401(a)), or exempt from income tax under 26 USCS Section 521 if the remuneration for such service is less than Fifty Dollars (\$50.00).

(h) Service performed in the employ of a school, college, or university if such service is performed:

(i) By a student who is enrolled and is regularly attending classes at such school, college or university, or

(ii) By the spouse of such a student if such spouse is advised, at the time such spouse commences to perform such service, that

(A) The employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and

(B) Such employment will not be covered by any program of unemployment insurance.

(i) Service performed by an individual under the age of twenty-two (22) who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program and such institution has so certified to the employer, except that this subparagraph shall not apply to service

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performed in a program established for or on behalf of an employer or group of employers.

(j) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital, as defined in subsection N of this section.

(k) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and services performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law.

(l) Service performed by an individual as an insurance agent or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission.

(m) Service performed by an individual * * * in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, except those employed by political subdivisions, state and local governments, nonprofit organizations and Indian tribes, as defined by this chapter, or any other entities for which coverage is required by federal statute and regulation.

(n) If the services performed during one-half (1/2) or more of any pay period by an employee for the employing unit employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half (1/2) of any such pay period by an employee for the employing unit employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection, the term "pay period" means a period (of

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not more than thirty-one (31) consecutive days) for which a payment of remuneration is ordinarily made to the employee by the employing unit employing him.

(o) Service performed by a barber or beautician whose work station is leased to him or her by the owner of the shop in which he or she works and who is compensated directly by the patrons he or she serves and who is free from direction and control by the lessor.

(p) Service performed by a "direct seller" if:

(i) Such person is engaged in the trade or business of selling (or soliciting the sale of) consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the department prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment; or such person is engaged in the trade or business of selling (or soliciting the sale of) consumer products in the home or otherwise than in a permanent retail establishment;

(ii) Substantially all the remuneration (whether or not paid in cash) for the performance of the services described in item (i) of this subparagraph is directly related to sales or other output (including the performance of services) rather than to the number of hours worked; and

(iii) The services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such services for federal tax purposes.

K. "Employment office" means a free public employment office or branch thereof, operated by this state or maintained as a part of the state controlled system of public employment offices.

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L. "Public employment service" means the operation of a program that offers free placement and referral services to applicants and employers, including job development.

M. "Fund" means the Unemployment Compensation Fund established by this chapter, to which all contributions required and from which all benefits provided under this chapter shall be paid.

N. "Hospital" means an institution which has been licensed, certified, or approved by the State Department of Health as a hospital.

O. "Institution of higher learning," for the purposes of this section, means an educational institution which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) Is legally authorized in this state to provide a program of education beyond high school;

(3) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation;

(4) Is a public or other nonprofit institution;

(5) Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this state are institutions of higher learning for purposes of this section.

P. (1) "State" includes, in addition to the states of the United States of America, the District of Columbia, Commonwealth of Puerto Rico and the Virgin Islands.

(2) The term "United States" when used in a geographical sense includes the states, the District of Columbia, Commonwealth of Puerto Rico and the Virgin Islands.

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(3) The provisions of paragraphs (1) and (2) of subsection P, as including the Virgin Islands, shall become effective on the day after the day on which the United States Secretary of Labor approves for the first time under Section 3304(a) of the Internal Revenue Code of 1954 an unemployment compensation law submitted to the secretary by the Virgin Islands for such approval.

Q. "Unemployment."

(1) An individual shall be deemed "unemployed" in any week during which he performs no services and with respect to which no wages are payable to him, or in any week of less than full-time work if the wages payable to him with respect to such week are less than his weekly benefit amount as computed and adjusted in Section 71-5-505. The department shall prescribe regulations applicable to unemployed individuals, making such distinctions in the procedure as to total unemployment, part-total unemployment, partial unemployment of individuals attached to their regular jobs, and other forms of short-time work, as the department deems necessary.

(2) An individual's week of total unemployment shall be deemed to commence only after his registration at an employment office, except as the department may by regulation otherwise prescribe.

R. (1) "Wages" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash, except that "wages," for purposes of determining employer's coverage and payment of contributions for agricultural and domestic service means cash remuneration only. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the department; however, that the term "wages" shall not include:

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(a) The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for his employees generally or for a class or classes of his employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of:

(i) Retirement, or

(ii) Sickness or accident disability, or

(iii) Medical or hospitalization expenses in connection with sickness or actual disability, or

(iv) Death, provided the employee:

(A) Has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employer, and

(B) Has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit or to receive a cash consideration in lieu of such benefit, either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer;

(b) Dismissal payments which the employer is not legally required to make;

(c) Payment by an employer (without deduction from the remuneration of an employee) of the tax imposed by the Internal Revenue Code, 26 USCS Section 3101;

(d) From and after January 1, 1992, the amount of any payment made to or on behalf of an employee for a "cafeteria" plan, which meets the following requirements:

(i) Qualifies under Section 125 of the Internal Revenue Code;

(ii) Covers only employees;

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(iii) Covers only noncash benefits;

(iv) Does not include deferred compensation plans.

(2) [Not enacted].

S. "Week" means calendar week or such period of seven (7) consecutive days as the department may by regulation prescribe. The department may by regulation prescribe that a week shall be deemed to be in, within, or during any benefit year which includes any part of such week.

T. "Insured work" means "employment" for "employers."

U. The term "includes" and "including," when used in a definition contained in this chapter, shall not be deemed to exclude other things otherwise within the meaning of the term defined.

V. "Employee leasing arrangement" means any agreement between an employee leasing firm and a client, whereby specified client responsibilities such as payment of wages, reporting of wages for unemployment insurance purposes, payment of unemployment insurance contributions and other such administrative duties are to be performed by an employee leasing firm, on an ongoing basis.

W. "Employee leasing firm" means any entity which provides specified duties for a client company such as payment of wages, reporting of wages for unemployment insurance purposes, payment of unemployment insurance contributions and other administrative duties, in connection with the client's employees, that are directed and controlled by the client and that are providing ongoing services for the client.

X. (1) "Temporary help firm" means an entity which hires its own employees and provides those employees to other individuals or organizations to perform some service, to support or supplement the existing workforce in special situations such as employee absences, temporary skill shortages, seasonal workloads and special assignments and projects, with the expectation that

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the worker's position will be terminated upon the completion of the specified task or function.

(2) "Temporary employee" means an employee assigned to work for the clients of a temporary help firm.

Y. For the purposes of this chapter, the term "notice" shall include any official communication, statement or other correspondence required under the administration of this chapter, and sent by the department through the United States Postal Service or electronic or digital transfer, via modem or the Internet.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 454

Description: Bolivar County Regional Facility; reenact and extend repealer on.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 02/13 (H) Referred To Corrections
- 2 02/27 (H) Title Suff Do Pass
- 3 03/08 (H) Passed Vote
- 4 03/09 (H) Transmitted To Senate
- 5 03/15 (S) Referred To Corrections; Appropriations
- 6 03/27 (S) DR - TSDP: CR To AP
- 7 03/29 (S) Title Suff Do Pass
- 8 04/05 (S) Passed Vote
- 9 04/09 (S) Transmitted To House
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/12 (S) Enrolled Bill Signed
- 12 04/18 Approved by Governor

Code Section: RA 047-0005-0940

---- Additional Information ----

House Committee: Corrections

Senate Committee: Corrections, Appropriations

Principal Author: Taylor

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Taylor

To: Corrections

HOUSE BILL NO. 454

AN ACT TO REENACT SECTION 47-5-940, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE BOLIVAR COUNTY REGIONAL FACILITY TO CONTRACT WITH THE DEPARTMENT OF CORRECTIONS FOR AN ALCOHOL AND DRUG TREATMENT PROGRAM AT THE FACILITY AND WHICH WAS REPEALED BY OPERATION OF LAW ON JULY 3, 2010; TO AMEND THE REENACTED SECTION TO EXTEND THE DATE OF REPEAL FROM JULY 3, 2010, TO JULY 3, 2015; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 47-5-940, Mississippi Code of 1972, is reenacted and amended as follows:

47-5-940. (1) (a) The Department of Corrections may contract with the Bolivar County Regional Facility for a five-year pilot program dedicated to an intensive and comprehensive alcohol and other drug treatment program for not more than two hundred fifty (250) inmates. The Bolivar County Regional Facility shall have the option of canceling the contract for the drug treatment program after giving the Department of Corrections thirty (30) days' notice of its intent to cancel. The program shall be a prison-based treatment program designed to reduce substance abuse by inmates, correct dysfunctional thinking and behavioral patterns, and prepare inmates to make a successful and crime-free readjustment to the community.

(b) The Department of Corrections shall reimburse the Bolivar County Regional Facility at the per diem rate allowed under Section 47-5-933.

(2) (a) An inmate who is within eighteen (18) months of his earned release date or parole date may be placed in the program.

(b) The Department of Corrections shall remove any inmate within seventy-two (72) hours after being notified by the

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Bolivar County Regional Facility that the inmate is violent or refuses to participate in the drug treatment program.

(3) The program shall consist, but is not limited to, the following components:

(a) An assessment and placement component using a recidivism needs assessment of the inmates.

(b) An intensive and comprehensive treatment and rehabilitation component which addresses the specific drug or alcohol problem of the inmate. This component shall include relapse prevention strategies, anger management strategies and regimented discipline strategies.

(c) An aftercare post-release component that has a specific transition plan for each inmate. The transition plan must address specific post-release needs such as employment, housing, medical care, relapse prevention and treatment. The plan shall require personnel to assist the inmate with these needs and to assist in finding community-based programs for the inmate. The plan shall require the inmate to be tracked in at least thirty-day intervals to measure compliance with his established transition plan.

(d) A monitoring assessment of recidivism containing post-release history of substance abuse, breaches of trust, arrests, convictions, employment, community functioning, and marital and family interaction.

(4) The department shall file a report annually on the program with specific data on recidivism of inmates including the data required in subsection (3)(d).

(5) The program authorized under this section may be renewed if it meets performance requirements as may be determined by the Legislature.

(6) This section shall repeal on July 3, 2015.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

House Bill 455

Description: Weapon dealer record keeping requirements; repeal.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 02/13 (H) Referred To Judiciary B
- 2 02/23 (H) Title Suff Do Pass As Amended
- 3 02/28 (H) Amended
- 4 02/28 (H) Passed As Amended *(Vote)*
- 5 02/29 (H) Transmitted To Senate
- 6 03/07 (S) Referred To Judiciary, Division B
- 7 04/03 (S) Title Suff Do Pass
- 8 04/05 (S) Passed *(Vote)*
- 9 04/09 (S) Transmitted To House
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/12 (S) Enrolled Bill Signed
- 12 04/18 Approved by Governor

Amendments:

 [H] Committee Amendment No 1 *Adopted* *Vote*

Code Section: RP 097-0037-0011

----- Additional Information -----

House Committee: Judiciary B

Senate Committee: Judiciary, Division B

Principal Author: Gipson

Additional Authors: Mims, DeBar

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Gipson, Mims, DeBar

To: Judiciary B

HOUSE BILL NO. 455
(As Passed the House)

AN ACT TO REPEAL SECTION 97-37-11, MISSISSIPPI CODE OF 1972, WHICH REQUIRES DEALERS TO KEEP RECORDS OF WEAPONS SOLD; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 97-37-11, Mississippi Code of 1972, which requires dealers to keep records of weapons sold, is repealed.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

House Bill 484

Description: Judicial pay raise; enact.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: VRA** See Text

History of Actions:

- 1 02/13 (H) Referred To Judiciary A
- 2 02/21 (H) Title Suff Do Pass Comm Sub
- 3 03/07 (H) Committee Substitute Adopted
- 4 03/07 (H) Passed {Vote}
- 5 03/09 (H) Transmitted To Senate
- 6 03/16 (S) Referred To Judiciary, Division A
- 7 03/29 (S) Title Suff Do Pass
- 8 04/04 (S) Passed {Vote}
- 9 04/05 (S) Transmitted To House
- 10 04/11 (S) Enrolled Bill Signed
- 11 04/11 (H) Enrolled Bill Signed
- 12 04/13 Approved by Governor

Code Section: A 025-0003-0035, A 009-0021-0045, A 025-0007-0003, A 025-0007-0009, A 025-0007-0013, A 025-0009-0101, A 009-0009-0011, A 099-0019-0073

----- Additional Information -----

House Committee: Judiciary A

Senate Committee: Judiciary, Division A

Principal Author: Baker

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Baker

To: Judiciary A

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 484

AN ACT TO AMEND SECTION 25-3-35, MISSISSIPPI CODE OF 1972, TO INCREASE THE SALARIES OF THE JUSTICES OF THE SUPREME COURT, JUDGES OF THE COURT OF APPEALS, JUDGES OF THE CHANCERY AND CIRCUIT COURTS AND DISTRICT ATTORNEYS ON AN INCREMENTAL BASIS; TO AMEND SECTION 9-21-45, MISSISSIPPI CODE OF 1972, TO REVISE THE PURPOSE FOR WHICH MONIES IN THE JUDICIAL SYSTEM OPERATION FUND MAY BE USED TO CONFORM TO THIS ACT; TO AMEND SECTION 25-7-3, MISSISSIPPI CODE OF 1972, TO INCREASE THE GENERAL DOCKET FEE FOR FILING AN APPEAL IN A CIVIL OR CRIMINAL CASE; TO AMEND SECTIONS 25-7-9 AND 25-7-13, MISSISSIPPI CODE OF 1972, TO ESTABLISH AN ADDITIONAL FEE FOR EVERY CIVIL CASE FILED WITH THE CHANCERY AND CIRCUIT CLERKS TO BE DEPOSITED INTO THE JUDICIAL SYSTEM OPERATION SPECIAL FUND FOR THE PURPOSE OF PROVIDING ADDITIONAL FUNDS FOR JUDICIAL SALARIES; TO CREATE SECTION 25-9-115, MISSISSIPPI CODE OF 1972, TO REQUIRE CERTAIN FUTURE JUDICIAL SALARY ADJUSTMENTS TO BE MADE BY THE STATE PERSONNEL BOARD; TO AMEND SECTION 25-9-101, MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTION 9-9-11, MISSISSIPPI CODE OF 1972, TO PROVIDE STATE SUPPORT FOR CERTAIN INCREASES IN JUDICIAL SALARIES FOR COUNTY COURT JUDGES; TO AMEND SECTION 99-19-73, MISSISSIPPI CODE OF 1972, TO REVISE THE STATEWIDE MONETARY ASSESSMENTS SO AS TO PROVIDE ADDITIONAL FUNDING FOR DISTRICT ATTORNEYS' AND ASSISTANT DISTRICT ATTORNEYS' SALARIES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-3-35, Mississippi Code of 1972, is amended as follows:

25-3-35. (1) The annual salaries of the following judges are fixed as follows * * *:

From and after January 1, 2013, through December 31, 2013:

Chief Justice of the Supreme Court.....\$126,292.50
Presiding Justices of the Supreme Court, each..... 123,600.75
Associate Justices of the Supreme Court, each..... 122,460.00

From and after January 1, 2014, through December 31, 2014:

Chief Justice of the Supreme Court.....\$137,195.00
Presiding Justices of the Supreme Court, each..... 134,011.50
Associate Justices of the Supreme Court, each..... 132,390.00

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From and after January 1, 2015, through December 31, 2015:

Chief Justice of the Supreme Court.....\$148,097.50

Presiding Justices of the Supreme Court, each..... 144,422.25

Associate Justices of the Supreme Court, each..... 142,320.00

From and after January 1, 2016:

Chief Justice of the Supreme Court.....\$159,000.00

Presiding Justices of the Supreme Court, each..... 154,833.00

Associate Justices of the Supreme Court, each..... 152,250.00

* * * There are imposed upon the Supreme Court justices the extra duties of taking all necessary action to promote judicial education in schools, drug courts, electronic filing and case management systems as developed by the Administrative Office of Courts, or such other additional duties as may be assigned by the Chief Justice of the Supreme Court. For such extra services each justice, from and after January 1, 2013, shall receive a sum sufficient * * * to aggregate * * *, per annum, the salaries set forth in this subsection (1).

The fixed salaries in this subsection (1) shall be paid from the State General Fund and from the Judicial System Operation Fund created under Section 9-21-45. No less than: One Hundred Fifteen Thousand Three Hundred Ninety Dollars (\$115,390.00) of the Chief Justice's salary in this subsection (1), One Hundred Thirteen Thousand One Hundred Ninety Dollars (\$113,190.00) of the salary of a Presiding Justice in this subsection (1), and One Hundred Twelve Thousand Five Hundred Thirty Dollars (\$112,530.00) of the salary of an Associate Justice in this subsection (1) shall be paid from General Fund monies; in addition, the Legislature shall appropriate annually from the Judicial System Operation Fund a sum sufficient to increase the salary of the Chief Justice, a Presiding Justice and an Associate Justice to the levels set forth in this subsection (1).

The fixed salaries as specified in this subsection (1) shall be the exclusive and total compensation which can be reported to

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the Public Employees' Retirement System for retirement purposes; however, any judge in office on December 31, 2003, may continue to report his expense allowance as part of his compensation for retirement purposes.

(2) The annual salaries of the judges of the Court of Appeals of Mississippi are fixed as follows * * *:

From and after January 1, 2013, through December 31, 2013:

Chief Judge of the Court of Appeals.....\$117,992.00

Associate Judges of the Court of Appeals, each.... 114,994.25

From and after January 1, 2014, through December 31, 2014:

Chief Judge of the Court of Appeals.....\$127,854.00

Associate Judges of the Court of Appeals, each.... 124,938.50

From and after January 1, 2015, through December 31, 2015:

Chief Judge of the Court of Appeals.....\$137,716.00

Associate Judges of the Court of Appeals, each.... 134,882.75

From and after January 1, 2016:

Chief Judge of the Court of Appeals.....\$147,578.00

Associate Judges of the Court of Appeals, each.... 144,827.00

From and after January 1, 2013, each judge shall receive a sum sufficient to aggregate, per annum, the salaries set forth in this subsection (2).

The fixed salaries in this subsection (2) shall be paid from the State General Fund and from the Judicial System Operation Fund created under Section 9-21-45. No less than One Hundred Eight Thousand One Hundred Thirty Dollars (\$108,130.00) of the Chief Judge's salary in this subsection (2) shall be paid from General Fund monies; in addition, the Legislature shall appropriate annually from the Judicial System Operation Fund a sum sufficient to increase the Chief Judge's salary to the level set forth in this subsection (2). No less than One Hundred Five Thousand Fifty Dollars (\$105,050.00) of the salary of an Associate Judge in this subsection (2) shall be paid from General Fund monies; in addition, the Legislature shall appropriate annually from the

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Judicial System Operation Fund a sum sufficient to increase the salary of an Associate Judge to the level set forth in this subsection (2).

The fixed salaries as specified in this subsection (2) shall be the exclusive and total compensation which can be reported to the Public Employees' Retirement System for retirement purposes; however, any judge in office on December 31, 2003, may continue to report his expense allowance as part of his compensation for retirement purposes.

(3) The annual salaries of the chancery and circuit court judges are fixed as follows * * *:

From and after January 1, 2013, through December 31, 2013:

Chancery Judges, each.....\$112,127.50

Circuit Judges, each..... 112,127.50

From and after January 1, 2014, through December 31, 2014:

Chancery Judges, each.....\$120,085.00

Circuit Judges, each..... 120,085.00

From and after January 1, 2015, through December 31, 2015:

Chancery Judges, each.....\$128,042.50

Circuit Judges, each..... 128,042.50

From and after January 1, 2016:

Chancery Judges, each.....\$136,000.00

Circuit Judges, each..... 136,000.00

In addition to their present official duties, the circuit and chancery judges shall take necessary action to promote judicial education in schools, drug courts, electronic filing and case management systems as developed by the Administrative Office of Courts, or such other additional duties as may be assigned by the Chief Justice of the Supreme Court. For such extra services each judge, from and after January 1, 2013, shall receive a sum sufficient * * * to aggregate * * *, per annum * * *, the salaries set forth in this subsection (3).

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The fixed salaries in this subsection (3) shall be paid from the State General Fund and from the Judicial System Operation Fund created under Section 9-21-45. No less than One Hundred Four Thousand One Hundred Seventy Dollars (\$104,170.00) of the salary of a Chancery or Circuit Judge in this subsection (3) shall be paid from General Fund monies; in addition, the Legislature shall appropriate annually from the Judicial System Operation Fund a sum sufficient to increase the salary of a Chancery or Circuit Judge to the levels set forth in this subsection (3).

(4) From and after January 1, 2019, and every four (4) years thereafter, the annual salaries of the judges in subsections (1), (2) and (3) shall be fixed at the level of compensation recommended by the State Personnel Board according to the board's most recent report on judicial salaries, as required under Section 25-9-115, to the extent that sufficient funds are available. The annual salaries fixed in accordance with this subsection (4) shall not become effective until the commencement of the next immediately succeeding term of office.

(5) The Supreme Court shall prepare a payroll for chancery judges and circuit judges and submit such payroll to the Department of Finance and Administration.

(6) The annual salary of the full-time district attorneys shall be * * *:

From and after January 1, 2013, through December 31, 2013:
One Hundred Three Thousand Three Hundred Twenty-two Dollars (\$103,322.00).

From and after January 1, 2014, through December 31, 2014:
One Hundred Ten Thousand Eight Hundred Forty-eight Dollars (\$110,848.00).

From and after January 1, 2015, through December 31, 2015:
One Hundred Eighteen Thousand Three Hundred Seventy-four Dollars (\$118,374.00).

From and after January 1, 2016:

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One Hundred Twenty-five Thousand Nine Hundred Dollars
(\$125,900.00).

(7) The annual salary of the full-time legal assistants shall be not less than Fifteen Thousand Dollars (\$15,000.00) nor more than eighty percent (80%) of the salary of the district attorney for legal assistants who have been licensed to practice law for five (5) years or less; eighty-five percent (85%) of the salary of the district attorney for legal assistants who have been licensed to practice law for at least five (5) years but less than fifteen (15) years; and ninety percent (90%) of the salary of the district attorney for legal assistants who have been licensed to practice law for at least fifteen (15) years or more.

SECTION 2. Section 9-21-45, Mississippi Code of 1972, is amended as follows:

9-21-45. (1) There is created in the State Treasury a special fund designated as the Judicial System Operation Fund. The funds shall be administered by the Supreme Court through the Administrative Office of Courts. The fund shall consist of monies deposited therein as provided in Section 99-19-72 and monies from any other source designated for deposit into the fund. The Administrative Office of Courts may also accept monies from any public or private source for deposit into the fund. Money remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned from the investment of monies in the fund shall be deposited to the credit of the fund.

(2) Monies in the fund shall be subject to appropriation by the Legislature and may only be used for the purpose of the operation of the judicial system in the state as determined necessary by the Supreme Court and to provide additional funds for the judicial salaries set forth in Section 25-3-25 and Section 9-9-11(8). Monies in the fund used for the purposes described in

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this section shall be in addition to other funds available from any other source for such purposes.

SECTION 3. Section 25-7-3, Mississippi Code of 1972, is amended as follows:

25-7-3. The Clerk of the Supreme Court shall charge the following fees:

(a) General docket fee, for filing the record on appeal in a civil or criminal case.....	<u>\$200.00</u>
(b) Miscellaneous docket fee.....	<u>50.00</u>
(c) Confidential miscellaneous docket fee.....	<u>200.00</u>
(d) Admission of new attorneys.....	<u>30.00</u>
(e) Act of Congress certificate.....	<u>25.00</u>
(f) Certificate of admission replacement.....	<u>25.00</u>
(g) Certificate of good standing replacement....	<u>10.00</u>
(h) Attest stamp.....	<u>5.00</u>
(i) Order from Minute Book.....	<u>10.00</u>
(j) Regular copying.....	.50 per page
(k) Copying from bound volumes or records.....	2.00 per page
(l) Copy of mandate.....	<u>10.00</u>
(m) Minimum copy charge.....	<u>1.00</u>
(n) Notary fee.....	<u>2.50</u>
(o) Decision list charge.....	<u>5.00</u>
(p) Handling charge and retrieval and delivery charges on completed Supreme Court records (to be retained out of deposit)	
On-site retrieval.....	<u>10.00</u>
Off-site retrieval.....	<u>15.00</u>
(q) Forfeited deposits on completed Supreme Court records.....	<u>100.00</u>
(r) Petition for rehearing.....	<u>50.00</u>

Said general docket fee shall be collected from the appellant by the clerk of the lower court and forwarded to the Clerk of the Supreme Court. The Clerk of the Supreme Court shall charge the

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maximum amount allowable by law for services rendered where charges for such services are provided by statute; for any other services rendered, the amount charged shall be consistent with the cost of providing such services. All fees shall be paid in the form of cash, cashier's check, or money order or by a check on the account of an attorney payable to the Clerk of the Supreme Court. All fees authorized to be assessed and collected by the Clerk of the Supreme Court shall be deposited into the State General Fund, except that One Hundred Dollars (\$100.00) of the general docket fee set under paragraph (a), Twenty-five Dollars (\$25.00) of the miscellaneous docket fee set under paragraph (b), One Hundred Dollars (\$100.00) of the confidential miscellaneous fee set under paragraph (c), Fifteen Dollars (\$15.00) of the act of congress certificate set under paragraph (e), Ten Dollars (\$10.00) of the certificate of admission replacement set under paragraph (f), Two Dollars and Fifty Cents (\$2.50) of the attest stamp set under paragraph (h), Five Dollars (\$5.00) of the order from minute book set under paragraph (i), Seven Dollars (\$7.00) of the copy of mandate set under paragraph (l), Fifty Dollars (\$50.00) of the forfeited deposits on completed Supreme Court records set under paragraph (q), Twenty-five Dollars (\$25.00) of the petition for rehearing fee under paragraph (r), and the total amount charged for any other services rendered shall be deposited to the credit of the Judicial System Operation Fund established in Section 9-21-45.

SECTION 4. Section 25-7-9, Mississippi Code of 1972, is amended as follows:

25-7-9. (1) The clerks of the chancery courts shall charge the following fees:

(a) For the act of certifying copies of filed documents, for each complete document.....\$ 1.00

(b) (i) Recording each deed, will, lease, amendment, subordination, lien, release, cancellation, order, decree, oath,

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etc., per book and page listed where applicable; for the first fifteen (15) pages.....	\$ 10.00
Each additional page.....	\$ 1.00
(ii) Sectional index entries per section or subdivision lot.....	\$ 1.00
(c) Recording each deed of trust, for the first fifteen (15) pages.....	\$ 15.00
Each additional page.....	\$ 1.00
Sectional index entries per section or subdivision lot.....	\$ 1.00
(d) (i) Recording oil and gas leases, cancellations, etc., including indexing in general indices; for the first fifteen (15) pages.....	\$ 18.00
Each additional page.....	\$ 1.00
(ii) Sectional index entries per section or subdivision lot.....	\$ 1.00
(iii) Recording each oil and gas assignment per assignee.....	\$ 18.00
(e) (i) Furnishing copies of any papers of record or on file:	
If performed by the clerk or his employee, per page.....	\$.50
If performed by any other person, per page.....	\$.25
(ii) Entering marginal notations on documents of record.....	\$ 1.00
(f) For each day's attendance on the board of supervisors, for himself and one (1) deputy, each.....	\$ 20.00
(g) For other services as clerk of the board of supervisors an allowance shall be made to him (payable semiannually at the July and January meetings) out of the county treasury, an annual sum not exceeding.....	\$3,000.00
(h) For each day's attendance on the chancery court, to be approved by the chancellor:	

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For the first chancellor sitting only, clerk and two (2) deputies, each.....\$ 50.00

For the second chancellor sitting, clerk only..\$ 50.00

Provided that the fees herein prescribed shall be the total remuneration for the clerk and his deputies for attending chancery court.

(i) On order of the court, clerks and not more than two (2) deputies may be allowed five (5) extra days for each term of court for attendance upon the court to get up records.

(j) For public service not otherwise specifically provided for, the chancery court may by order allow the clerk to be paid by the county on the order of the board of supervisors, an annual sum not exceeding.....\$5,000.00

(k) For each civil filing, to be deposited into the Civil Legal Assistance Fund.....\$ 5.00

The chancery clerk shall itemize on the original document a detailed fee bill of all charges due or paid for filing, recording and abstracting same. No person shall be required to pay such fees until same have been so itemized, but those fees may be demanded before the document is recorded.

(2) The following fees shall be a total fee for all services performed by the clerk with respect to a complaint which shall be payable upon filing and shall accrue to the chancery clerk at the time of filing. The clerk or his successor in office shall perform all duties set forth without additional compensation or fee to wit:

- (a) Divorce to be contested.....\$75.00
- (b) Divorce uncontested.....\$30.00
- (c) Alteration of birth or marriage certificate..\$25.00
- (d) Removal of minority.....\$25.00
- (e) Guardianship or conservatorship.....\$75.00
- (f) Estate of deceased, intestate.....\$75.00
- (g) Estate of deceased, testate.....\$75.00

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- (h) Adoption.....\$75.00
 - (i) Land dispute.....\$75.00
 - (j) Injunction.....\$75.00
 - (k) Settlement of small claim.....\$30.00
 - (l) Contempt in child support.....\$75.00
 - (m) Partition suit.....\$75.00
 - (n) Any cross-complaint.....\$25.00
 - (o) Commitment.....\$75.00
- (3) For every civil case filed:
- (a) An additional fee to be deposited to the credit of the Comprehensive Electronic Court Systems Fund established in Section 9-21-14.....\$10.00
 - (b) An additional fee to be deposited to the credit of the Judicial System Operation Fund established in Section 9-21-45.....\$40.00
- (4) Cost of process shall be borne by the issuing party. Additionally, should the attorney or person filing the pleadings desire the clerk to pay the cost to the sheriff for serving process on one (1) person or more, or to pay the cost of publication, the clerk shall demand the actual charges therefor, at the time of filing.

SECTION 5. Section 25-7-13, Mississippi Code of 1972, is amended as follows:

25-7-13. (1) The clerks of the circuit court shall charge the following fees:

- (a) Docketing, filing, marking and registering each complaint, petition and indictment.....\$ 85.00

The fee set forth in this paragraph shall be the total fee for all services performed by the clerk up to and including entry of judgment with respect to each complaint, petition or indictment, including all answers, claims, orders, continuances and other papers filed therein, issuing each writ, summons, subpoena or other such instruments, swearing witnesses, taking and

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recording bonds and pleas, and recording judgments, orders, fiats and certificates; the fee shall be payable upon filing and shall accrue to the clerk at the time of collection. The clerk or his successor in office shall perform all duties set forth above without additional compensation or fee.

(b) Docketing and filing each motion to renew judgment, suggestion for a writ of garnishment, suggestion for a writ of execution and judgment debtor actions and issuing all process, filing and recording orders or other papers and swearing witnesses.....\$ 35.00

(c) For every civil case filed, an additional fee to be deposited to the credit of the Comprehensive Electronic Court Systems Fund established in Section 9-21-14.....\$ 10.00

(d) For every civil case filed, an additional fee to be deposited to the credit of the Judicial System Operation Fund established in Section 9-21-45.....\$ 40.00

(2) Except as provided in subsection (1) of this section, the clerks of the circuit court shall charge the following fees:

(a) Filing and marking each order or other paper and recording and indexing same.....\$ 2.00

(b) Issuing each writ, summons, subpoena, citation, capias and other such instruments.....\$ 1.00

(c) Administering an oath and taking bond.....\$ 2.00

(d) Certifying copies of filed documents, for each complete document.....\$ 1.00

(e) Recording orders, fiats, licenses, certificates, oaths and bonds:

First page.....\$ 2.00

Each additional page.....\$ 1.00

(f) Furnishing copies of any papers of record or on file and entering marginal notations on documents of record:

If performed by the clerk or his employee,
per page.....\$ 1.00

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If performed by any other person, per page.....	\$.25
(g) Judgment roll entry.....	\$ 5.00
(h) Taxing cost and certificate.....	\$ 1.00
(i) For taking and recording application for marriage license, for filing and recording consent of parents when required by law, for filing and recording medical certificate, filing and recording proof of age, recording and issuing license, recording and filing returns.....	\$ 20.00

The clerk shall deposit Fourteen Dollars (\$14.00) of each fee collected for a marriage license in the Victims of Domestic Violence Fund established in Section 93-21-117, on a monthly basis.

(j) For certified copy of marriage license and search of record, the same fee charged by the Bureau of Vital Statistics of the State Board of Health.

(k) For public service not particularly provided for, the circuit court may allow the clerk, per annum, to be paid by the county on presentation of the circuit court's order, the following amount.....\$5,000.00

However, in the counties having two (2) judicial districts, such above allowance shall be made for each judicial district.

(l) For drawing jurors and issuing venire, to be paid by the county.....\$ 5.00

(m) For each day's attendance upon the circuit court term, for himself and necessary deputies allowed by the court, each to be paid by the county.....\$ 50.00

(n) Summons, each juror to be paid by the county upon the allowance of the court.....\$ 1.00

(o) For issuing each grand jury subpoena, to be paid by the county on allowance by the court, not to exceed Twenty-five Dollars (\$25.00) in any one (1) term of court.....\$ 1.00

(p) For each civil filing, to be deposited into the Civil Legal Assistance Fund.....\$ 5.00

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(3) On order of the court, clerks and deputies may be allowed five (5) extra days for attendance upon the court to get up records.

(4) The clerk's fees in state cases where the state fails in the prosecution, or in cases of felony where the defendant is convicted and the cost cannot be made out of his estate, in an amount not to exceed Four Hundred Dollars (\$400.00) in one (1) year, shall be paid out of the county treasury on approval of the circuit court, and the allowance thereof by the board of supervisors of the county. In counties having two (2) judicial districts, such allowance shall be made in each judicial district; however, the maximum thereof shall not exceed Eight Hundred Dollars (\$800.00). Clerks in the circuit court, in cases where appeals are taken in criminal cases and no appeal bond is filed, shall be allowed by the board of supervisors of the county after approval of their accounts by the circuit court, in addition to the above fees, for making such transcript the rate of Two Dollars (\$2.00) per page.

(5) The clerk of the circuit court may retain as his commission on all money coming into his hands, by law or order of the court, a sum to be fixed by the court not exceeding one-half of one percent ($1/2$ of 1%) on all such sums.

(6) For making final records required by law, including, but not limited to, circuit and county court minutes, and furnishing transcripts of records, the circuit clerk shall charge Two Dollars (\$2.00) per page. The same fees shall be allowed to all officers for making and certifying copies of records or papers which they are authorized to copy and certify.

(7) The circuit clerk shall prepare an itemized statement of fees for services performed, cost incurred, or for furnishing copies of any papers of record or on file, and shall submit the statement to the parties or, if represented, to their attorneys

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within sixty (60) days. A bill for same shall accompany the statement.

SECTION 6. The following shall be codified as Section 25-9-115, Mississippi Code of 1972:

25-9-115. From and after November 1, 2017, and every four (4) years thereafter, the State Personnel Board shall prepare a written report to the Legislature that examines, evaluates and recommends an adequate level of compensation for the justices of the Supreme Court, the judges of the Court of Appeals, the judges of the chancery and circuit courts, the judges of the county courts, judicial staff attorneys, and law clerks. In preparing the report, the board shall consider all appropriate factors including, but not limited to, comparative judicial, judicial staff attorney, and law clerk salaries in neighboring states and in the Southeast as a whole; comparative judicial, judicial staff attorney, and law clerk salaries in the federal judiciary; salaries of comparable professionals in government, academia, private law practice and the corporate sector; changes in public sector spending; rates of inflation; and the overall economic climate.

SECTION 7. Section 25-9-101, Mississippi Code of 1972, is amended as follows:

25-9-101. It is the purpose of this chapter to establish in the State of Mississippi a system of personnel administration based on sound methods of personnel administration governing the establishment of employment positions, classification of positions and the employment conduct, movement and separation of state employees; to build a career service in government which will attract, select and retain the best persons, with incentives in the form of equal opportunities for initial appointment and promotions in the state service; * * * to establish a system of personnel management that will ensure the effective and efficient

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use of employees in the state service; and to perform such other duties as may be specified in this chapter or any other law.

SECTION 8. Section 9-9-11, Mississippi Code of 1972, is amended as follows:

9-9-11. (1) Except as otherwise provided in subsections (2), (3) and (4), the county court judge shall receive an annual salary payable monthly out of the county treasury in an amount not to exceed One Thousand Dollars (\$1,000.00) less than the salary which is now or shall hereafter be provided for circuit and chancery judges of this state, in the discretion of the board of supervisors of said county; provided, however, that the salary of such judge shall not be reduced during his term of office. Provided further, that the office of county court judge in any county receiving an annual salary of Thirty-six Thousand Dollars (\$36,000.00) or more shall be a full-time position, and the holder thereof shall not otherwise engage in the practice of law.

(2) If a county court is established by agreement between two (2) or more counties as provided in Section 9-9-3, the county judge of the court so established shall be paid a salary equal to one and one-half (1-1/2) times that salary that he would be paid if he were the judge of the smallest of such two (2) or more counties, such salary to be paid in monthly installments as provided by law; provided that such salary shall not exceed One Thousand Dollars (\$1,000.00) less than the salary of the circuit and chancery judges of this state.

(3) The county court judge shall receive an annual salary payable monthly out of the county treasury as follows:

(a) In any county having a population of seventy thousand (70,000) or more according to the 1980 federal census, the county judge shall receive an annual salary of One Thousand Dollars (\$1,000.00) less than that paid to a circuit court judge. The office of county judge shall be a full-time position, and the holder thereof shall not otherwise engage in the practice of law.

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(b) In any county having a population of sixty thousand (60,000) or more but less than seventy thousand (70,000) according to the 1980 federal census, the county judge shall receive an annual salary of Forty Thousand Dollars (\$40,000.00). The office of county judge shall be a full-time position, and the holder thereof shall not otherwise engage in the practice of law. The county judge shall not be eligible for any additional salary except as may be authorized in subsection (4).

(c) In any county having a population of twenty-seven thousand (27,000) or more but less than sixty thousand (60,000) according to the 1980 federal census, the county judge shall receive an annual salary of not less than Twelve Thousand Dollars (\$12,000.00) but not more than Forty Thousand Dollars (\$40,000.00), in the discretion of the board of supervisors of said county. The county judge shall not be eligible for any additional salary except as may be authorized in subsection (4). In the event that the board of supervisors of said county elects to pay such county judge an annual salary of Thirty Thousand Dollars (\$30,000.00) or more, the office of county judge shall be a full-time position, and the holder thereof shall not otherwise engage in the practice of law.

(d) In any county having a population of less than twenty-seven thousand (27,000) according to the 1980 federal census, the county judge shall receive an annual salary of not less than Four Thousand Two Hundred Dollars (\$4,200.00) and not more than Eight Thousand Five Hundred Dollars (\$8,500.00), in the discretion of the board of supervisors of said county. The county judge shall not be eligible for any additional salary except as may be authorized in subsection (4).

(4) The county judge of any county described in this subsection shall be paid the compensation, and he shall be subject to any restrictions set forth in the following paragraphs:

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(a) The county judge of any such Class 1 county with a population according to the latest federal decennial census of forty-five thousand (45,000) or more and lying wholly within a levee district and having two (2) judicial districts shall, in the discretion of the board of supervisors of such county, receive an annual salary not exceeding Forty Thousand Dollars (\$40,000.00), or a sum which is One Thousand Dollars (\$1,000.00) less than the salary which is now or shall hereafter be provided for circuit and chancery judges of the state, whichever is greater.

(b) The county judge of any Class 1 county having an area in excess of nine hundred twenty-five (925) square miles shall receive an annual salary of not less than Thirty Thousand Dollars (\$30,000.00) but, in the discretion of the board of supervisors of such county, such salary may be not more than Five Hundred Dollars (\$500.00) less than the annual salary of a circuit judge, payable monthly out of the county treasury, and the county judge shall not practice law.

(c) The office of county judge in any such Class 1 county with a population according to the 1970 federal decennial census of greater than thirty-nine thousand (39,000), and where U.S. Highway 61 and Mississippi Highway 6 intersect, shall receive an annual salary to be paid in monthly installments of not less than an amount equal to ninety percent (90%) of the annual salary which is now or shall hereafter be provided for circuit and chancery judges of the state, as follows: The salary of the county judge shall be increased by ten percent (10%) annually above the base salary of the preceding year until such time as the judge's salary is equal to the amount that is provided by this subsection. The office of county judge shall be a full-time position and the holder thereof shall not otherwise engage in the practice of law.

(d) In any Class 1 county bordering on the Mississippi River and which has situated therein a national military park and

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national military cemetery, the office of county judge shall be a full-time position and the holder thereof shall not otherwise engage in the practice of law. The salary for the county judge in said county shall be fixed at a sum which is One Thousand Dollars (\$1,000.00) less than the salary which is now or shall hereafter be provided for circuit and chancery judges of this state.

(e) The county judge in any county having a population of at least forty-two thousand one hundred eleven (42,111), according to the 1970 census, and where U.S. Highway 49E and U.S. Highway 82 intersect, shall receive an annual salary to be paid in monthly installments of not less than Thirty Thousand Dollars (\$30,000.00) but not more than Two Thousand Five Hundred Dollars (\$2,500.00) less than the annual salary of the circuit judge, in the discretion of the board of supervisors of said county.

(f) The county judge in any Class 1 county bordering on the Mississippi River and having an area of less than four hundred fifty (450) square miles wherein U.S. Highways 84 and 61 intersect shall receive an annual salary of Four Thousand Dollars (\$4,000.00) less than the annual salary of a circuit judge, and such county judge shall not practice law in any manner. The county judge in such county shall not be eligible to receive any additional salary authorized by this section or from any other source other than that set out and authorized by this paragraph.

(g) The county judge of any Class 1 county bordering on the Mississippi River on the west and the State of Tennessee on the north, and traversed north to south by Interstate Highway 55, shall receive an annual salary of ninety percent (90%) of the salary which is now or shall hereafter be provided for chancery and circuit judges of this state, but in any event not less than Sixty Thousand Two Hundred Dollars (\$60,200.00).

(h) The county judge of any Class 1 county with a population of greater than sixty-nine thousand (69,000) according to the 1980 federal decennial census, and wherein U.S. Highway 80

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and Mississippi Highway 43 intersect, shall receive an annual salary in an amount not greater than the sum of Five Hundred Dollars (\$500.00) less than the salary which is now or shall hereafter be provided for circuit and chancery judges of this state, in the discretion of the board of supervisors of said county.

(i) The county judge of any county having a population in excess of sixty-six thousand (66,000) according to the 1980 federal decennial census, wherein is located a state-supported university and in which U.S. Highways 49 and 11 intersect, shall receive an annual salary of One Thousand Dollars (\$1,000.00) less than that paid to a circuit court judge. The office of such county judge shall be a full-time position, and the holder thereof shall not otherwise engage in the practice of law.

(j) The county judge of any county having two (2) judicial districts, having a population in excess of sixty-one thousand nine hundred (61,900) according to the 1980 federal decennial census, in which U.S. Interstate Highway 59 intersects with U.S. Highway 84, shall receive an annual salary of One Thousand Dollars (\$1,000.00) less than the salary which is now or hereafter authorized to be paid circuit and chancery court judges of this state. The office of such county judge shall be a full-time position, and the holder thereof shall not otherwise engage in the practice of law.

(k) The office of county judge of any Class I county wherein U.S. Highway 51 and U.S. Highway 98 intersect shall be a full-time position and the holder thereof shall not otherwise engage in the practice of law. The annual salary for the office of county judge in said county may be fixed, in the discretion of the board of supervisors of said county, at a sum not to exceed Two Thousand Dollars (\$2,000.00) less than the salary which is now or shall hereafter be provided for circuit and chancery judges of this state.

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(l) The county judge of any county having a population of more than forty-one thousand six hundred (41,600) but less than forty-one thousand six hundred fifty (41,650) according to the 1980 federal census, and wherein U.S. Highway 49 intersects with Mississippi Highway 22, shall receive an annual salary payable monthly out of the county treasury of One Thousand Dollars (\$1,000.00) less than the salary provided now or hereafter for circuit and chancery judges of this state.

(m) The county judge of any county having a population of more than fifty-seven thousand (57,000) but less than fifty-seven thousand one hundred (57,100) according to the 1980 federal census, wherein U.S. Highway 45 intersects with Mississippi Highway 6, shall receive an annual salary in an amount established by the board of supervisors, but in no event to exceed the salary provided now or hereafter for circuit and chancery judges of this state.

(n) The county judge of any county having a population of more than fifty-seven thousand three hundred (57,300) according to the 1980 federal decennial census, wherein is located a state-supported university and wherein U.S. Highways 82 and 45 intersect, shall receive an annual salary in an amount established by the board of supervisors, but in no event to exceed the salary provided now or hereafter for circuit and chancery judges of this state.

(5) The salary of a county court judge or justice court judge shall not be reduced during his term of office as a result of a population decrease based upon the 1990 federal decennial census.

(6) The salary of a sheriff shall not be reduced during his term of office as a result of a population decrease based upon the 1990 federal decennial census.

(7) Notwithstanding any provision of this section to the contrary, the board of supervisors of any county, in its

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discretion, may pay its county court judge an annual salary of One Thousand Dollars (\$1,000.00) less than that paid to a circuit court judge. The office of county judge shall be a full-time position, and the holder thereof shall not otherwise engage in the practice of law.

(8) (a) There shall be transferred to the county for each county court judge, payment to be made in monthly installments from the Judicial System Operation Fund created under Section 9-21-45, an annual salary supplement of:

(i) From and after January 1, 2013, through December 31, 2013, the sum of Seven Thousand Nine Hundred Fifty-seven Dollars and Fifty Cents (\$7,957.50), plus any applicable fringe benefits resulting from this amount;

(ii) From and after January 1, 2014, through December 31, 2014, the sum of Fifteen Thousand Nine Hundred Fifteen Dollars (\$15,915.00), plus any applicable fringe benefits resulting from this amount;

(iii) From and after January 1, 2015, through December 31, 2015, the sum of Twenty-three Thousand Eight Hundred Seventy-two Dollars and Fifty Cents (\$23,872.50), plus any applicable fringe benefits resulting from this amount; and

(iv) From and after January 1, 2016, through December 31, 2019, the sum of Thirty-one Thousand Eight Hundred Thirty Dollars (\$31,830.00), plus any applicable fringe benefits resulting from this amount.

(b) From and after January 1, 2019, and every four (4) years thereafter, the annual salary in this subsection (8) shall be adjusted according to the level of compensation recommended by the State Personnel Board for county court judges in the board's most recent report on judicial salaries, as required under Section 25-9-115, to the extent that sufficient funds are available.

(c) The total annual salary paid to the county court judge out of the county treasury and out of the Judicial System

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Operation Fund created under Section 9-21-45 shall not exceed the salary limitation set forth in subsection (7) of this section.

SECTION 9. Section 99-19-73, Mississippi Code of 1972, is amended as follows:

99-19-73. (1) **Traffic violations.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any violation in Title 63, Mississippi Code of 1972, except offenses relating to the Mississippi Implied Consent Law (Section 63-11-1 et seq.) and offenses relating to vehicular parking or registration:

FUND	AMOUNT
State Court Education Fund.....	\$ 1.50
State Prosecutor Education Fund.....	2.00
Vulnerable Persons Training, Investigation and Prosecution Trust Fund.....	1.50
Child Support Prosecution Trust Fund.....	.50
Driver Training Penalty Assessment Fund.....	7.00
Law Enforcement Officers Training Fund.....	5.00
Spinal Cord and Head Injury Trust Fund (for all moving violations).....	6.00
Emergency Medical Services Operating Fund.....	20.00
Mississippi Leadership Council on Aging Fund.....	1.00
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund.....	.50
Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund.....	1.00
State Prosecutor Compensation Fund for the purpose of providing additional compensation for <u>district</u> <u>attorneys and their legal assistants</u>	10.00
Crisis Intervention Mental Health Fund.....	10.00
Drug Court Fund.....	10.00

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Capital Defense Counsel Fund.....	2.89
Indigent Appeals Fund.....	2.29
Capital Post-Conviction Counsel Fund.....	2.33
Victims of Domestic Violence Fund.....	.49
Public Defenders Education Fund.....	1.00
Domestic Violence Training Fund.....	1.00
Attorney General's Cyber-Crime Unit.....	2.50
TOTAL STATE ASSESSMENT.....	\$ <u>88.50</u>

(2) **Implied Consent Law violations.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or any other penalty for any violation of the Mississippi Implied Consent Law (Section 63-11-1 et seq.):

FUND	AMOUNT
Crime Victims' Compensation Fund.....	\$ 10.00
State Court Education Fund.....	1.50
State Prosecutor Education Fund.....	2.00
Vulnerable Persons Training,	
Investigation and Prosecution Trust Fund.....	1.50
Child Support Prosecution Trust Fund.....	.50
Driver Training Penalty Assessment Fund.....	22.00
Law Enforcement Officers Training Fund.....	11.00
Emergency Medical Services Operating Fund.....	45.00
Mississippi Alcohol Safety Education Program Fund.....	5.00
Federal-State Alcohol Program Fund.....	10.00
Mississippi Crime Laboratory	
Implied Consent Law Fund.....	25.00
Spinal Cord and Head Injury Trust Fund.....	25.00
Capital Defense Counsel Fund.....	2.89
Indigent Appeals Fund.....	2.29
Capital Post-Conviction Counsel Fund.....	2.33
Victims of Domestic Violence Fund.....	.49

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State General Fund.....	35.00
Law Enforcement Officers and Fire Fighters Death	
Benefits Trust Fund.....	.50
Law Enforcement Officers and Fire Fighters Disability	
Benefits Trust Fund.....	1.00
State Prosecutor Compensation Fund for the purpose	
of providing additional compensation for <u>district</u>	
<u>attorneys and their legal assistants.....</u>	<u>10.00</u>
Crisis Intervention Mental Health Fund.....	10.00
Drug Court Fund.....	10.00
Statewide Victims' Information and Notification	
System Fund.....	6.00
Public Defenders Education Fund.....	1.00
Domestic Violence Training Fund.....	1.00
Attorney General's Cyber-Crime Unit.....	2.50
TOTAL STATE ASSESSMENT.....	\$ <u>243.50</u>

(3) **Game and Fish Law violations.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any violation of the game and fish statutes or regulations of this state:

FUND	AMOUNT
State Court Education Fund.....	\$ 1.50
State Prosecutor Education Fund.....	2.00
Vulnerable Persons Training,	
Investigation and Prosecution Trust Fund.....	1.50
Law Enforcement Officers Training Fund.....	5.00
Hunter Education and Training Program Fund.....	5.00
State General Fund.....	30.00
Law Enforcement Officers and Fire Fighters Death	
Benefits Trust Fund.....	.50
Law Enforcement Officers and Fire Fighters Disability	

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Benefits Trust Fund.....	1.00
State Prosecutor Compensation Fund for the purpose of providing additional compensation for <u>district</u> <u>attorneys and their legal assistants</u>	10.00
Crisis Intervention Mental Health Fund.....	10.00
Drug Court Fund.....	10.00
Capital Defense Counsel Fund.....	2.89
Indigent Appeals Fund.....	2.29
Capital Post-Conviction Counsel Fund.....	2.33
Victims of Domestic Violence Fund.....	.49
Public Defenders Education Fund.....	1.00
Domestic Violence Training Fund.....	1.00
Attorney General's Cyber-Crime Unit.....	2.50
TOTAL STATE ASSESSMENT.....	\$ 89.00

(4) **Litter Law violations.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any violation of Section 97-15-29 or 97-15-30:

FUND	AMOUNT
Statewide Litter Prevention Fund.....	\$ 25.00
TOTAL STATE ASSESSMENT.....	\$ 25.00

(5) **Speeding, reckless and careless driving violations.** In addition to any assessment imposed under subsection (1) or (2) of this section, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for driving a vehicle on a road or highway:

- (a) At a speed that exceeds the posted speed limit by at least ten (10) miles per hour but not more than twenty (20) miles per hour.....\$ 10.00
- (b) At a speed that exceeds the posted speed limit by at least twenty (20) miles per hour but not more than thirty (30) miles per hour.....\$ 20.00

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(c) At a speed that exceeds the posted speed limit by thirty (30) miles per hour or more.....\$ 30.00

(d) In violation of Section 63-3-1201, which is the offense of reckless driving.....\$ 10.00

(e) In violation of Section 63-3-1213, which is the offense of careless driving.....\$ 10.00

All assessments collected under this subsection shall be deposited into the Mississippi Trauma Care Systems Fund established under Section 41-59-75.

(6) **Other misdemeanors.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any misdemeanor violation not specified in subsection (1), (2) or (3) of this section, except offenses relating to vehicular parking or registration:

FUND	AMOUNT
Crime Victims' Compensation Fund.....	\$ 10.00
State Court Education Fund.....	1.50
State Prosecutor Education Fund.....	2.00
Vulnerable Persons Training, Investigation and Prosecution Trust Fund.....	1.50
Child Support Prosecution Trust Fund.....	.50
Law Enforcement Officers Training Fund.....	5.00
Capital Defense Counsel Fund.....	2.89
Indigent Appeals Fund.....	2.29
Capital Post-Conviction Counsel Fund.....	2.33
Victims of Domestic Violence Fund.....	.49
State General Fund.....	30.00
State Crime Stoppers Fund.....	1.50
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund.....	.50
Law Enforcement Officers and Fire Fighters Disability	

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Benefits Trust Fund.....	1.00
State Prosecutor Compensation Fund for the purpose of providing additional compensation for <u>district</u> <u>attorneys and their legal assistants</u>	10.00
Crisis Intervention Mental Health Fund.....	10.00
Drug Court Fund.....	8.00
Judicial Performance Fund.....	2.00
Statewide Victims' Information and Notification System Fund.....	6.00
Public Defenders Education Fund.....	1.00
Domestic Violence Training Fund.....	1.00
Attorney General's Cyber-Crime Unit.....	2.50
Information Exchange Network Fund.....	4.00
TOTAL STATE ASSESSMENT.....	<u>\$106.00</u>

(7) **Other felonies.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any felony violation not specified in subsection (1), (2) or (3) of this section:

FUND	AMOUNT
Crime Victims' Compensation Fund.....	\$ 10.00
State Court Education Fund.....	1.50
State Prosecutor Education Fund.....	2.00
Vulnerable Persons Training, Investigation and Prosecution Trust Fund.....	1.50
Child Support Prosecution Trust Fund.....	.50
Law Enforcement Officers Training Fund.....	5.00
Capital Defense Counsel Fund.....	2.89
Indigent Appeals Fund.....	2.29
Capital Post-Conviction Counsel Fund.....	2.33
Victims of Domestic Violence Fund.....	.49
State General Fund.....	60.00

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Criminal Justice Fund.....	50.00
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund.....	.50
Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund.....	1.00
State Prosecutor Compensation Fund for the purpose of providing additional compensation for <u>district</u> <u>attorneys and their legal assistants</u>	10.00
Crisis Intervention Mental Health Fund.....	10.00
Drug Court Fund.....	10.00
Statewide Victims' Information and Notification System Fund.....	6.00
Public Defenders Education Fund.....	1.00
Domestic Violence Training Fund.....	1.00
Attorney General's Cyber-Crime Unit.....	2.50
Crime Laboratory DNA Identification System Fund.....	100.00
TOTAL STATE ASSESSMENT.....	<u>\$280.50</u>

(8) **Additional assessments on certain violations:**

(a) **Railroad crossing violations.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment in addition to all other state assessments due under this section from each person upon whom a court imposes a fine or other penalty for any violation involving railroad crossings under Section 37-41-55, 63-3-1007, 63-3-1009, 63-3-1011, 63-3-1013 or 77-9-249:

Operation Lifesaver Fund.....\$25.00

(b) **Drug violations.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment in addition to all other state assessments due under this section from each person upon whom a court imposes a fine or other penalty for any violation of Section 41-29-139:

Drug Evidence Disposition Fund.....\$25.00

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(9) If a fine or other penalty imposed is suspended, in whole or in part, such suspension shall not affect the state assessment under this section. No state assessment imposed under the provisions of this section may be suspended or reduced by the court.

(10) After a determination by the court of the amount due, it shall be the duty of the clerk of the court to promptly collect all state assessments imposed under the provisions of this section. The state assessments imposed under the provisions of this section may not be paid by personal check. It shall be the duty of the chancery clerk of each county to deposit all such state assessments collected in the circuit, county and justice courts in such county on a monthly basis with the State Treasurer pursuant to appropriate procedures established by the State Auditor. The chancery clerk shall make a monthly lump-sum deposit of the total state assessments collected in the circuit, county and justice courts in such county under this section, and shall report to the Department of Finance and Administration the total number of violations under each subsection for which state assessments were collected in the circuit, county and justice courts in such county during such month. It shall be the duty of the municipal clerk of each municipality to deposit all such state assessments collected in the municipal court in such municipality on a monthly basis with the State Treasurer pursuant to appropriate procedures established by the State Auditor. The municipal clerk shall make a monthly lump-sum deposit of the total state assessments collected in the municipal court in such municipality under this section, and shall report to the Department of Finance and Administration the total number of violations under each subsection for which state assessments were collected in the municipal court in such municipality during such month.

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(11) It shall be the duty of the Department of Finance and Administration to deposit on a monthly basis all such state assessments into the proper special fund in the State Treasury. The monthly deposit shall be based upon the number of violations reported under each subsection and the pro rata amount of such assessment due to the appropriate special fund. The Department of Finance and Administration shall issue regulations providing for the proper allocation of these special funds.

(12) The State Auditor shall establish by regulation procedures for refunds of state assessments, including refunds associated with assessments imposed before July 1, 1990, and refunds after appeals in which the defendant's conviction is reversed. The Auditor shall provide in such regulations for certification of eligibility for refunds and may require the defendant seeking a refund to submit a verified copy of a court order or abstract by which such defendant is entitled to a refund. All refunds of state assessments shall be made in accordance with the procedures established by the Auditor.

SECTION 10. The Attorney General of the State of Mississippi shall submit Sections 1 and 8 of this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 11. Sections 1 and 8 of this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, or January 1, 2013, whichever occurs later; and the remainder of this act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 525

Description: Department of Corrections; revise the amount of contracts that must be approved by the Public Procurement Review Board.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/13 (H) Referred To Corrections
- 2 02/27 (H) Title Suff Do Pass
- 3 03/08 (H) Passed (Vote)
- 4 03/09 (H) Transmitted To Senate
- 5 03/16 (S) Referred To Corrections
- 6 03/27 (S) Title Suff Do Pass
- 7 04/05 (S) Passed (Vote)
- 8 04/09 (S) Transmitted To House
- 9 04/11 (H) Enrolled Bill Signed
- 10 04/12 (S) Enrolled Bill Signed
- 11 04/18 Approved by Governor

Code Section: A 047-0005-0105

----- Additional Information -----

House Committee: Corrections

Senate Committee: Corrections

Principal Author: Flaggs

2012 GENERAL LAWS OF MISSISSIPPI, HB 525

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Flaggs

To: Corrections

HOUSE BILL NO. 525

AN ACT TO AMEND SECTION 47-5-105, MISSISSIPPI CODE OF 1972, TO REVISE THE AMOUNT THAT THE DEPARTMENT OF CORRECTIONS MUST RECEIVE APPROVAL FROM THE PUBLIC PROCUREMENT REVIEW BOARD FOR CONTRACTS AWARDED BY THE DEPARTMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 47-5-105, Mississippi Code of 1972, is amended as follows:

47-5-105. The award of all contracts in excess of Five Hundred Thousand Dollars (\$500,000.00) entered into by the commissioner shall be approved by the Public Procurement Review Board and shall be entered on the minutes of such board before any funds shall be expended therefor. Provided further, that the entrance of the award of contracts on the minutes of the Public Procurement Review Board shall contain a detailed accounting of all bids entered showing clearly the lowest bid and best bid that was awarded in each and every case and, if the bid accepted is not the lowest, then the reasons and justification for not accepting the lowest bid shall be spread on the minutes. A true copy of the minutes of each meeting of such Public Procurement Review Board shall be sent monthly to the Governor, members of the Legislative Budget Office and Chairmen of the Corrections Committees of the Senate and * * * the House of Representatives.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 544

Description: Burn Center Lodge; update name of organization receiving tax to support it to the current name of MS Burn Foundation.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2012

History of Actions:

- 1 02/13 (H) Referred To Appropriations
- 2 03/06 (H) Title Suff Do Pass
- 3 03/12 (H) Passed *{Vote}*
- 4 03/12 (H) Motion to Reconsider Entered (Flaggs, Frierson, Huddleston (15th))
- 5 03/14 (H) Motion to Reconsider Tabled
- 6 03/14 (H) Transmitted To Senate
- 7 03/19 (S) Referred To Finance
- 8 03/29 (S) Title Suff Do Pass
- 9 04/04 (S) Passed *{Vote}*
- 10 04/05 (S) Transmitted To House
- 11 04/11 (S) Enrolled Bill Signed
- 12 04/11 (H) Enrolled Bill Signed
- 13 04/17 Approved by Governor

Code Section: A 027-0039-0332

----- Additional Information -----

House Committee: Appropriations

Senate Committee: Finance

Principal Author: Baker

2012 GENERAL LAWS OF MISSISSIPPI, HB 544

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Baker

To: Appropriations

HOUSE BILL NO. 544

AN ACT TO AMEND SECTION 27-39-332, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES COUNTIES TO LEVY MILLAGE FOR THE CONSTRUCTION AND OPERATION OF THE BURN CENTER LODGE FOR FAMILIES OF VICTIMS BEING TREATED AT THE BURN UNIT AT CROSSGATES RIVER OAKS HOSPITAL, TO CHANGE THE NAME OF THE ORGANIZATION TO WHICH THE PROCEEDS OF THE MILLAGE ARE PROVIDED FROM THE MISSISSIPPI FIREFIGHTERS MEMORIAL BURN ASSOCIATION TO THE CURRENT NAME OF THE MISSISSIPPI BURN FOUNDATION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-39-332, Mississippi Code of 1972, is amended as follows:

[Until July 1, 2016, this section shall read as follows:]

27-39-332. (1) The board of supervisors of any county is authorized and empowered, in its discretion, to levy a tax not to exceed one (1) mill per annum upon all taxable property of the county, which shall be provided directly to the Mississippi Department of Health to support the Mississippi Burn Care Fund.

(2) (a) The board of supervisors of any county is authorized and empowered, in its discretion, to levy a tax not to exceed one (1) mill per annum upon all taxable property of the county, which shall be provided directly to the Mississippi Burn Foundation to support the construction and/or operation of the Burn Center Lodge for families of victims being treated at the Joseph M. Still Burn and Reconstructive Center, Inc., at Crossgates River Oaks Hospital.

(b) (i) The Mississippi Burn Foundation shall hire an independent auditor, who uses generally accepted accounting principles and auditing standards, to perform an annual audit on the financial condition of the association and to create a report

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containing the results of the audit. The auditor's report shall be submitted to the Mississippi Commissioner of Insurance within one hundred eighty (180) days of the end of the association's fiscal year, and shall be published in accordance with the Mississippi Public Records Act of 1983.

(ii) No county board of supervisors shall donate any funds to the Mississippi Burn Foundation in any year in which the association fails to submit the annual audit report, required by this paragraph (b), to the Commissioner of Insurance. The Mississippi Burn Foundation shall be prohibited from receiving any funds until the annual audit report, required by this paragraph (b), is submitted to the Commissioner of Insurance.

[From and after July 1, 2016, this section shall read as follows:]

27-39-332. The board of supervisors of any county is authorized and empowered, in its discretion, to levy a tax not to exceed one (1) mill per annum upon all taxable property of the county, which shall be provided directly to the Mississippi Department of Health, or the University of Mississippi Medical Center after the Mississippi Burn Center is operational, to support the Mississippi Burn Care Fund.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 545

Description: Counties; revise procedures to clean property determined to be a menace.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/13 (H) Referred To Judiciary A
- 2 02/28 (H) Title Suff Do Pass
- 3 03/13 (H) Passed *(Voted)*
- 4 03/14 (H) Transmitted To Senate
- 5 03/19 (S) Referred To County Affairs
- 6 03/28 (S) Title Suff Do Pass
- 7 04/04 (S) Passed *(Voted)*
- 8 04/05 (S) Transmitted To House
- 9 04/11 (S) Enrolled Bill Signed
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/17 Approved by Governor

Code Section: A 019-0005-0105

—— Additional Information ——

House Committee: Judiciary A

Senate Committee: County Affairs

Principal Author: Baker

2012 GENERAL LAWS OF MISSISSIPPI, HB 545

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Baker

To: Judiciary A

HOUSE BILL NO. 545

AN ACT TO AMEND SECTION 19-5-105, MISSISSIPPI CODE OF 1972, TO REVISE THE PROCEDURES USED BY COUNTY BOARDS OF SUPERVISORS TO CLEAN PROPERTY THAT IS ADJUDICATED A MENACE TO THE PUBLIC HEALTH, SAFETY AND WELFARE OF THOSE IN THE COUNTY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 19-5-105, Mississippi Code of 1972, is amended as follows:

19-5-105. To determine whether property or a parcel of land located within a county is in such a state of uncleanness as to be a menace to the public health, safety and welfare of the community, the board of supervisors of any county is * * * authorized and empowered to conduct a hearing on its own motion, or upon the receipt of a petition requesting the board of supervisors to * * * act signed by a majority of the residents eighteen (18) years of age or older, residing upon any street or alley, within reasonable proximity of any property alleged to be in need of cleaning, or within seven hundred fifty (750) feet of the precise location of the alleged menace situated on any parcel of land which is located in a populated area or in a housing subdivision and alleged to be in need of cleaning.

Notice shall be provided to the property owner by:

(a) United States mail two (2) weeks before the date of the hearing mailed to the address of the subject property and to the address where the ad valorem tax notice for such property is sent by the office charged with collecting ad valorem tax; and

(b) Posting notice for at least two (2) weeks before the date of a hearing on the property or parcel of land alleged to

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be in need of cleaning and at the county courthouse or another place in the county where such notices are posted.

The notice required by this section shall include language that informs the property owner that an adjudication at the hearing that the property or parcel of land is in need of cleaning will authorize the board of supervisors to reenter the property or parcel of land for a period of one (1) year after the hearing without any further hearing, if notice is posted on the property or parcel of land and at the county courthouse or another place in the county where such notices are generally posted at least seven (7) days before the property or parcel of land is reentered for cleaning. A copy of the required notice mailed and posted as required by this section shall be recorded in the minutes of the board of supervisors in conjunction with the hearing required by this section.

If at such hearing the board of supervisors shall in its resolution adjudicate such * * * parcel of land in its then condition to be a menace to the public health and safety of the community, the board of supervisors may, if the owner not do so himself, proceed to have the land cleaned by cutting weeds, filling cisterns, and removing rubbish, dilapidated fences, outside toilets, dilapidated buildings and other debris, and draining cesspools and standing water * * *. Thereafter, the board of supervisors may at its next regular meeting by resolution adjudicate the actual cost of cleaning the land and may also impose a penalty not to exceed One Thousand Five Hundred Dollars (\$1,500.00) or fifty percent (50%) of the actual cost, whichever is more. The cost and any penalty shall become an assessment against the property. The "cost assessed against the property" means either the cost to the county of using its own employees to do the work or the cost to the county of any contract executed by the county to have the work done, and administrative costs and legal costs of the county.

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A county may reenter the property or parcel of land to maintain cleanliness without further notice of hearing no more than six (6) times in any twelve-month period with respect to removing dilapidated buildings, dilapidated fences and outside toilets, and no more than twelve (12) times in any twenty-four-month period with respect to cutting grass and weeds and removing rubbish, personal property and other debris on the land. The expense of cleaning the property shall not exceed an aggregate amount of Twenty Thousand Dollars (\$20,000.00) per year, or the fair market value of the property subsequent to cleaning, whichever is less. The board of supervisors may assess the same penalty each time the property or land is cleaned as otherwise provided in this section.

The penalty provided herein shall not be assessed against the State of Mississippi upon request for reimbursement under Section 29-1-145, nor shall a county clean a parcel owned by the State of Mississippi without first giving notice.

The assessment authorized by this section shall be a lien against the property and may be enrolled in the office of the circuit clerk of the county as other judgments are enrolled, and the tax collector of the county shall, upon order of the board of supervisors, proceed to sell the land to satisfy the lien as now provided by law for the sale of lands for delinquent taxes. Furthermore, the property owner whose land has been sold pursuant to this section shall have the same right of redemption as now provided by law for the sale of lands for delinquent taxes. All decisions rendered under the provisions of this section may be appealed in the same manner as other appeals from county boards * * *.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 575

Description: Public Transit Task Force; revise membership and deadline for recommendations of.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 02/17 (H) Referred To Transportation
- 2 03/06 (H) Title Suff Do Pass
- 3 03/13 (H) Read the Third Time
- 4 03/15 (H) Passed (Vote)
- 5 03/16 (H) Transmitted To Senate
- 6 03/22 (S) Referred To Highways and Transportation
- 7 03/27 (S) Title Suff Do Pass
- 8 04/04 (S) Passed (Vote)
- 9 04/05 (S) Transmitted To House
- 10 04/11 (S) Enrolled Bill Signed
- 11 04/11 (H) Enrolled Bill Signed
- 12 04/17 Approved by Governor

----- Additional Information -----

House Committee: Transportation

Senate Committee: Highways and Transportation

Principal Author: Flaggs

2012 GENERAL LAWS OF MISSISSIPPI, HB 575

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Flaggs

To: Transportation

HOUSE BILL NO. 575

AN ACT TO AMEND SECTION 1, CHAPTER 468, LAWS OF 2010, TO REVISE THE MEMBERSHIP OF THE PUBLIC TRANSIT TASK FORCE AND TO REVISE THE DEADLINE FOR REPORTING ITS FINDINGS AND RECOMMENDATIONS TO THE LEGISLATURE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 1, Chapter 468, Laws of 2010, is amended as follows:

Section 1. (1) There is created the Public Transit Task Force to study and make recommendations with regard to present and future needs of public transportation in Mississippi. The task force shall make a report of its findings and recommendations to the Legislature during the 2012 and 2013 Regular Legislative Sessions.

(2) The task force shall be composed of the following members:

- (a) The Chairman of the House Transportation Committee;
- (b) The Chairman of the Senate Highways and Transportation Committee;
- (c) One (1) member of the House appointed by the Chairman of the House Transportation Committee;
- (d) One (1) member of the Senate appointed by the Chairman of the Senate Highways and Transportation Committee;
- (e) Two (2) members of the Mississippi Public Transportation Association appointed by the association's executive director;
- (f) The Director of the Public Transit Division of the Mississippi Department of Transportation;

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(g) The Executive Director of the Mississippi Development Authority, or his designee;

(h) The Executive Director of the Southern High-Speed Rail Commission, or his designee;

(i) Three (3) persons appointed by the Governor, one (1) from a consumer advisory group composed of citizens who use that public transit on a regular basis, one (1) from the Mississippi State University department; or disciplines that study public transportation; and one (1) who represents either a metropolitan planning organization or a planning and development district; and

(j) One (1) member appointed by the AARP.

(3) Appointments shall be made within thirty (30) days after the effective date of this act, and, within fifteen (15) days thereafter on a day to be designated jointly by the Chair of the House Transportation Committee and the Chair of the Senate Highways and Transportation Committee, the task force shall meet and organize by selecting from its membership a chairman and a vice chairman. The vice chairman shall also serve as secretary and shall be responsible for keeping all records of the task force. A majority of the members of the task force shall constitute a quorum. In the selection of its officers and the adoption of rules, resolutions and reports, an affirmative vote of a majority of the task force shall be required. All members shall be notified in writing of all meetings, such notices to be electronically transmitted or mailed at least seven (7) days before the date on which a meeting is to be held.

(4) The task force shall be assisted by administrative and legal staff members of the Legislature and any other staff assistance requested of the Mississippi Department of Transportation and the Mississippi Development Authority. To effectuate the purposes of this section, any department, division, board, bureau, commission or agency of the state or of any

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political subdivision thereof, at the request of the chairman of the task force, shall provide to the task force such facilities, assistance and data as will enable the task force properly to carry out its duties.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

House Bill 585

Description: Boundaries of county supervisors districts; revise when changes to such can be effective.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: VRA

History of Actions:

- 1 02/17 (H) Referred To Apportionment and Elections
- 2 02/23 (H) Title Suff Do Pass
- 3 03/12 (H) Passed *100-0*
- 4 03/13 (H) Transmitted To Senate
- 5 03/19 (S) Referred To Elections
- 6 04/02 (S) Title Suff Do Pass
- 7 04/04 (S) Passed *100-0*
- 8 04/05 (S) Transmitted To House
- 9 04/11 (S) Enrolled Bill Signed
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/17 Approved by Governor

Code Section: A 023-0015-0285, A 019-0003-0001

----- Additional Information -----

House Committee: Apportionment and Elections

Senate Committee: Elections

Principal Author: Gunn

2012 GENERAL LAWS OF MISSISSIPPI, HB 585

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Gunn

To: Apportionment and
Elections

HOUSE BILL NO. 585

AN ACT TO AMEND SECTION 23-15-285, MISSISSIPPI CODE OF 1972, TO REVISE THE TIME PERIOD IN WHICH ANY CHANGE TO THE BOUNDARY OF THE DISTRICT FOR A COUNTY SUPERVISOR MAY BE EFFECTIVE; TO AMEND SECTION 19-3-1, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 23-15-285, Mississippi Code of 1972, is amended as follows:

23-15-285. The board of supervisors shall cause an entry to be made on the minutes of the board at some meeting, as early as convenient, defining the boundaries of the several supervisors districts and voting precincts in the county, and designating the voting place in each voting precinct; and as soon as practicable after any change is made in any supervisors district, voting precinct or any voting place * * *, the board of supervisors shall cause such * * * change to be entered on the minutes of the board in such manner as to be easily understood. The changed boundaries shall conform to visible natural or artificial boundaries such as streets, highways, railroads, rivers, lakes, bayous or other obvious lines of demarcation, with the exception of county lines and municipal corporate limits.

No voting precinct shall have more than five hundred (500) qualified electors residing in its boundaries. Subject to the provisions of this section, each board of supervisors of the various counties of this state shall as soon as practical after the effective date of this section, alter or change the boundaries of the various voting precincts to comply herewith and shall from time to time make such * * * changes in the boundaries of voting

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precincts so that there shall never be more than five hundred (500) qualified electors within the boundaries of the various voting precincts of this state; provided further, this limitation shall not apply to voting precincts that are so divided, alphabetically or otherwise, so as to have less than five hundred (500) qualified electors in any one (1) box within a voting precinct. However, * * * the limitation of five hundred (500) qualified electors to the voting precinct shall not apply to voting precincts in which voting machines are used at all elections held in that voting precinct. No change in any supervisors district or voting precinct shall take effect less than thirty (30) days before the qualifying deadline for the office of county supervisor. Any change in any boundary of a supervisors district or voting precinct that is approved under the Voting Rights Act of 1965 less than thirty (30) days before such qualifying deadline shall be effective only for an election for county supervisor held in a year following the year in which such change is approved under the Voting Rights Act of 1965. Provided, however, that, with the exception of county lines and municipal corporate limits, such altered boundaries shall conform to visible natural or artificial boundaries such as streets, highways, railroads, rivers, lakes, bayous or other obvious lines of demarcation.

SECTION 2. Section 19-3-1, Mississippi Code of 1972, is amended as follows:

19-3-1. Each county shall be divided into five (5) districts, with due regard to equality of population and convenience of situation for the election of members of the boards of supervisors, but the districts as now existing shall continue until changed. The qualified electors of each district shall elect, at the next general election, and every four (4) years thereafter, in their districts one (1) member of the board of supervisors. Subject to the provisions of Section 23-15-285, the

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board, by a three-fifths (3/5) vote of all members elected, may * * * change * * * the districts, the boundaries to be entered at large in the minutes of the proceedings of the board. Provided, however, that such changed boundaries shall in as far as possible conform as to natural, visible artificial boundaries, such as streets, highways, railroads, rivers, lakes, bayous or other obvious lines of demarcation, except county lines and municipal corporate limits.

If the boundaries of the districts are changed * * * by order of the board of supervisors as * * * provided in this section, the order * * * shall be published in a newspaper having general circulation in the county once each week for three (3) consecutive weeks.

SECTION 3. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 4. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.

Mississippi Legislature
2012 Regular Session

House Bill 633

Description: Emerging Crops Fund; extend date by which reversionary language on certain programs shall occur.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/17 (H) Referred To Agriculture
- 2 03/02 (H) Title Suff Do Pass Comm Sub
- 3 03/13 (H) Read the Third Time
- 4 03/14 (H) Committee Substitute Adopted
- 5 03/14 (H) Amended
- 6 03/14 (H) Passed As Amended (Vote)
- 7 03/19 (H) Transmitted To Senate
- 8 03/22 (S) Referred To Finance
- 9 04/03 (S) Title Suff Do Pass
- 10 04/05 (S) Passed (Vote)
- 11 04/09 (S) Transmitted To House
- 12 04/11 (H) Enrolled Bill Signed
- 13 04/12 (S) Enrolled Bill Signed
- 14 04/18 Approved by Governor

Amendments:

 [H] Amendment No 1 (Cmte Sub) *Adopted* ~~voice~~ *Vote*

Code Section: A 069-0002-0013

----- Additional Information -----

House Committee: Agriculture

Senate Committee: Finance

Principal Author: Sullivan

2012 GENERAL LAWS OF MISSISSIPPI, HB 633

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Sullivan

To: Agriculture

HOUSE BILL NO. 633
(As Passed the House)

AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE BY WHICH THE REVERSIONARY LANGUAGE ON THE EMERGING CROPS FUND LOAN PROGRAM TO MAKE PERMANENT THE AVAILABILITY OF THE SEPARATE LOAN ESTABLISHED UNDER THE PROGRAM MADE TO CERTAIN AGRIBUSINESSES OR GREENHOUSE PRODUCTION HORTICULTURE ENTERPRISES SHALL OCCUR; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 69-2-13, Mississippi Code of 1972, is amended as follows:

[Through June 30, 2014, this section shall read as follows:]

69-2-13. (1) There is hereby established in the State Treasury a fund to be known as the "Emerging Crops Fund," which shall be used to pay the interest on loans made to farmers for nonland capital costs of establishing production of emerging crops on land in Mississippi, and to make loans and grants which are authorized under this section to be made from the fund. The fund shall be administered by the Mississippi Development Authority. A board comprised of the directors of the authority, the Mississippi Cooperative Extension Service, the Mississippi Small Farm Development Center and the Mississippi Agricultural and Forestry Experiment Station, or their designees, shall develop definitions, guidelines and procedures for the implementation of this chapter. Funds for the Emerging Crops Fund shall be provided from the issuance of bonds or notes under Sections 69-2-19 through 69-2-37 and from repayment of interest loans made from the fund.

(2) (a) The Mississippi Development Authority shall develop a program which gives fair consideration to making loans for the processing and manufacturing of goods and services by

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agribusiness, greenhouse production horticulture, and small business concerns. It is the policy of the State of Mississippi that the Mississippi Development Authority shall give due recognition to and shall aid, counsel, assist and protect, insofar as is possible, the interests of agribusiness, greenhouse production horticulture, and small business concerns. To ensure that the purposes of this subsection are carried out, the Mississippi Development Authority shall loan not more than One Million Dollars (\$1,000,000.00) to finance any single agribusiness, greenhouse production horticulture, or small business concern. Loans made pursuant to this subsection shall be made in accordance with the criteria established in Section 57-71-11.

(b) The Mississippi Development Authority may, out of the total amount of bonds authorized to be issued under this chapter, make available funds to any planning and development district in accordance with the criteria established in Section 57-71-11. Planning and development districts which receive monies pursuant to this provision shall use such monies to make loans to private companies for purposes consistent with this subsection.

(c) The Mississippi Development Authority is hereby authorized to engage legal services, financial advisors, appraisers and consultants if needed to review and close loans made hereunder and to establish and assess reasonable fees including, but not limited to, liquidation expenses.

(3) (a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for the following programs of loans to be made to agribusiness or greenhouse production horticulture enterprises for the purpose of encouraging thereby the extension of conventional financing and the issuance of letters of credit to such agribusiness or greenhouse production horticulture enterprises by private

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institutions. Monies to make such loans by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund.

(b) The Mississippi Development Authority may make loans to agribusiness or greenhouse production horticulture enterprises. The amount of any loan to any single enterprise under this paragraph (b) shall not exceed twenty percent (20%) of the total cost of the project for which financing is sought or Two Hundred Thousand Dollars (\$200,000.00), whichever is less. No interest shall be charged on such loans, and only the amount actually loaned shall be required to be repaid. Repayments shall be deposited into the Emerging Crops Fund.

(c) The Mississippi Development Authority also may make loans under this subsection (3) to existing agribusiness or greenhouse production horticulture enterprises for the purpose of assisting such enterprises to make upgrades, renovations, repairs and other improvements to their equipment, facilities and operations, which shall not exceed Two Hundred Thousand Dollars (\$200,000.00) or thirty percent (30%) of the total cost of the project for which financing is sought, whichever is less. No interest shall be charged on loans made under this paragraph, and only the amount actually loaned shall be required to be repaid. Repayments shall be deposited into the Emerging Crops Fund.

(d) The maximum aggregate amount of loans that may be made under this subsection (3) to any one agribusiness shall be not more than Four Hundred Thousand Dollars (\$400,000.00).

(4) (a) Through June 30, 2010, the Mississippi Development Authority may loan or grant to qualified planning and development districts, and to small business investment corporations, bank-based community development corporations, the Recruitment and Training Program, Inc., the City of Jackson Business Development Loan Fund, the Lorman Southwest Mississippi Development Corporation, the West Jackson Community Development Corporation, the East Mississippi Development Corporation, and other entities

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meeting the criteria established by the Mississippi Development Authority (all referred to hereinafter as "qualified entities"), funds for the purpose of establishing loan revolving funds to assist in providing financing for minority economic development. The monies loaned or granted by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Twenty-nine Million Dollars (\$29,000,000.00) in the aggregate. Planning and development districts or qualified entities which receive monies pursuant to this provision shall use such monies to make loans to minority business enterprises consistent with criteria established by the Mississippi Development Authority. Such criteria shall include, at a minimum, the following:

(i) The business enterprise must be a private, for-profit enterprise.

(ii) If the business enterprise is a proprietorship, the borrower must be a resident citizen of the State of Mississippi; if the business enterprise is a corporation or partnership, at least fifty percent (50%) of the owners must be resident citizens of the State of Mississippi.

(iii) The borrower must have at least five percent (5%) equity interest in the business enterprise.

(iv) The borrower must demonstrate ability to repay the loan.

(v) The borrower must not be in default of any previous loan from the state or federal government.

(vi) Loan proceeds may be used for financing all project costs associated with development or expansion of a new small business, including fixed assets, working capital, start-up costs, rental payments, interest expense during construction and professional fees related to the project.

(vii) Loan proceeds shall not be used to pay off existing debt for loan consolidation purposes; to finance the

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acquisition, construction, improvement or operation of real property which is to be held primarily for sale or investment; to provide for, or free funds, for speculation in any kind of property; or as a loan to owners, partners or stockholders of the applicant which do not change ownership interest by the applicant. However, this does not apply to ordinary compensation for services rendered in the course of business.

(viii) The maximum amount that may be loaned to any one borrower shall be Two Hundred Fifty Thousand Dollars (\$250,000.00).

(ix) The Mississippi Development Authority shall review each loan before it is made, and no loan shall be made to any borrower until the loan has been reviewed and approved by the Mississippi Development Authority.

(b) For the purpose of this subsection, the term "minority business enterprise" means a socially and economically disadvantaged small business concern, organized for profit, performing a commercially useful function which is owned and controlled by one or more minorities or minority business enterprises certified by the Mississippi Development Authority, at least fifty percent (50%) of whom are resident citizens of the State of Mississippi. Except as otherwise provided, for purposes of this subsection, the term "socially and economically disadvantaged small business concern" shall have the meaning ascribed to such term under the Small Business Act (15 USCS, Section 637(a)), or women, and the term "owned and controlled" means a business in which one or more minorities or minority business enterprises certified by the Mississippi Development Authority own sixty percent (60%) or, in the case of a corporation, sixty percent (60%) of the voting stock, and control sixty percent (60%) of the management and daily business operations of the business. However, an individual whose personal net worth exceeds Five Hundred Thousand Dollars (\$500,000.00)

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shall not be considered to be an economically disadvantaged individual.

From and after July 1, 2010, monies not loaned or granted by the Mississippi Development Authority to planning and development districts or qualified entities under this subsection, and monies not loaned by planning and development districts or qualified entities, shall be deposited to the credit of the sinking fund created and maintained in the State Treasury for the retirement of bonds issued under Section 69-2-19.

(c) Notwithstanding any other provision of this subsection to the contrary, if federal funds are not available for commitments made by a planning and development district to provide assistance under any federal loan program administered by the planning and development district in coordination with the Appalachian Regional Commission or Economic Development Administration, or both, a planning and development district may use funds in its loan revolving fund, which have not been committed otherwise to provide assistance, for the purpose of providing temporary funding for such commitments. If a planning and development district uses uncommitted funds in its loan revolving fund to provide such temporary funding, the district shall use funds repaid to the district under the temporarily funded federal loan program to replenish the funds used to provide the temporary funding. Funds used by a planning and development district to provide temporary funding under this paragraph (c) must be repaid to the district's loan revolving fund no later than twelve (12) months after the date the district provides the temporary funding. A planning and development district may not use uncommitted funds in its loan revolving fund to provide temporary funding under this paragraph (c) on more than two (2) occasions during a calendar year. A planning and development district may provide temporary funding for multiple commitments on each such occasion. The maximum aggregate amount of uncommitted

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funds in a loan revolving fund that may be used for such purposes during a calendar year shall not exceed seventy percent (70%) of the uncommitted funds in the loan revolving fund on the date the district first provides temporary funding during the calendar year.

(d) If the Mississippi Development Authority determines that a planning and development district or qualified entity has provided loans to minority businesses in a manner inconsistent with the provisions of this subsection, then the amount of such loans so provided shall be withheld by the Mississippi Development Authority from any additional grant funds to which the planning and development district or qualified entity becomes entitled under this subsection. If the Mississippi Development Authority determines, after notifying such planning and development district or qualified entity twice in writing and providing such planning and development district or qualified entity a reasonable opportunity to comply, that a planning and development district or qualified entity has consistently failed to comply with this subsection, the Mississippi Development Authority may declare such planning and development district or qualified entity in default under this subsection and, upon receipt of notice thereof from the Mississippi Development Authority, such planning and development district or qualified entity shall immediately cease providing loans under this subsection, shall refund to the Mississippi Development Authority for distribution to other planning and development districts or qualified entities all funds held in its revolving loan fund and, if required by the Mississippi Development Authority, shall convey to the Mississippi Development Authority all administrative and management control of loans provided by it under this subsection.

(e) If the Mississippi Development Authority determines, after notifying a planning and development district or qualified entity twice in writing and providing copies of such

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notification to each member of the Legislature in whose district or in a part of whose district such planning and development district or qualified entity is located and providing such planning and development district or qualified entity a reasonable opportunity to take corrective action, that a planning and development district or qualified entity administering a revolving loan fund under the provisions of this subsection is not actively engaged in lending as defined by the rules and regulations of the Mississippi Development Authority, the Mississippi Development Authority may declare such planning and development district or qualified entity in default under this subsection and, upon receipt of notice thereof from the Mississippi Development Authority, such planning and development district or qualified entity shall immediately cease providing loans under this subsection, shall refund to the Mississippi Development Authority for distribution to other planning and development districts or qualified entities all funds held in its revolving loan fund and, if required by the Mississippi Development Authority, shall convey to the Mississippi Development Authority all administrative and management control of loans provided by it under this subsection.

(5) The Mississippi Development Authority shall develop a program which will assist minority business enterprises by guaranteeing bid, performance and payment bonds which such minority businesses are required to obtain in order to contract with federal agencies, state agencies or political subdivisions of the state. The Mississippi Development Authority may secure letters of credit, as determined necessary by the authority, to guarantee bid, performance and payment bonds pursuant to this subsection. Monies for such program shall be drawn from the monies allocated under subsection (4) of this section to assist the financing of minority economic development and shall not exceed Three Million Dollars (\$3,000,000.00) in the aggregate. The Mississippi Development Authority may promulgate rules and

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regulations for the operation of the program established pursuant to this subsection. For the purpose of this subsection (5), the term "minority business enterprise" has the meaning assigned such term in subsection (4) of this section.

(6) The Mississippi Development Authority may loan or grant to public entities and to nonprofit corporations funds to defray the expense of financing (or to match any funds available from other public or private sources for the expense of financing) projects in this state which are devoted to the study, teaching and/or promotion of regional crafts and which are deemed by the authority to be significant tourist attractions. The monies loaned or granted shall be drawn from the Emerging Crops Fund and shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in the aggregate.

(7) Through June 30, 2006, the Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce funds for the purpose of establishing loan revolving funds and other methods of financing for agribusiness programs administered under the Mississippi Agribusiness Council Act of 1993. The monies made available by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed One Million Two Hundred Thousand Dollars (\$1,200,000.00) in the aggregate. The Mississippi Department of Agriculture and Commerce shall establish control and auditing procedures for use of these funds. These funds will be used primarily for quick payment to farmers for vegetable and fruit crops processed and sold through vegetable processing plants associated with the Department of Agriculture and Commerce and the Mississippi State Extension Service.

(8) From and after July 1, 1996, the Mississippi Development Authority shall make available to the Mississippi Small Farm Development Center One Million Dollars (\$1,000,000.00) to be used by the center to assist small entrepreneurs as provided in Section

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37-101-25, Mississippi Code of 1972. The monies made available by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund.

(9) [Repealed]

(10) The Mississippi Development Authority shall make available to the Small Farm Development Center at Alcorn State University funds in an aggregate amount not to exceed Three Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash balance of the Emerging Crops Fund. The Small Farm Development Center at Alcorn State University shall use such funds to make loans to producers of sweet potatoes and cooperatives anywhere in the State of Mississippi owned by sweet potato producers to assist in the planting of sweet potatoes and the purchase of sweet potato production and harvesting equipment. A report of the loans made under this subsection shall be furnished by January 15 of each year to the Chairman of the Senate Agriculture Committee and the Chairman of the House Agriculture Committee.

(11) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce "Make Mine Mississippi" program an amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from the cash balance of the Emerging Crops Fund.

(12) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce an amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from the cash balance of the Emerging Crops Fund to be used for the rehabilitation and maintenance of the Mississippi Farmers Central Market in Jackson, Mississippi.

(13) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce an amount not to exceed Twenty-five Thousand Dollars (\$25,000.00) to be drawn from the cash balance of the Emerging

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Crops Fund to be used for advertising purposes related to the Mississippi Farmers Central Market in Jackson, Mississippi.

(14) (a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for a program of loan guaranties to be made on behalf of any nonprofit entity qualified under Section 501(c)(3) of the Internal Revenue Code and certified by the United States Department of the Treasury as a community development financial institution for the purpose of encouraging the extension of financing to such an entity which financing the entity will use to make funds available to other entities for the purpose of making loans available in low-income communities in Mississippi. Monies to make such loan guaranties by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Two Million Dollars (\$2,000,000.00) in the aggregate. The amount of a loan guaranty on behalf of such an entity under this subsection (14) shall not exceed Two Million Dollars (\$2,000,000.00). Assistance received by an entity under this subsection (14) shall not disqualify the entity from obtaining any other assistance under this chapter.

(b) An entity desiring assistance under this subsection (14) must submit an application to the Mississippi Development Authority. The application must include any information required by the Mississippi Development Authority.

(c) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (14), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (14).

(15) (a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for a program of grants to agribusiness enterprises that process,

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dry, store or ship peanuts and if the enterprise has invested prior to April 17, 2009, a minimum of Six Million Dollars (\$6,000,000.00) in land, facilities and equipment in this state that are utilized to process, dry, store or ship peanuts. Monies to make such grants by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed One Million Dollars (\$1,000,000.00) in the aggregate. The amount of a grant under this subsection (15) shall not exceed One Million Dollars (\$1,000,000.00).

(b) An entity desiring assistance under this subsection (15) must submit an application to the Mississippi Development Authority. The application must include a description of the project for which assistance is requested, the cost of the project for which assistance is requested, the amount of assistance requested and any other information required by the Mississippi Development Authority.

(c) As a condition of the receipt of a grant under this subsection (15), an entity must agree to remain in business in this state for not less than five (5) years and must meet other conditions established by the Mississippi Development Authority to ensure that the assistance results in an economic benefit to the state. The Mississippi Development Authority shall require that binding commitments be entered into requiring that:

(i) The minimum requirements provided for in this subsection (15) and the conditions established by the Mississippi Development Authority are met; and

(ii) If such commitments and conditions are not met, all or a portion of the funds provided pursuant to this subsection (15) shall be repaid.

(d) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (15), and the Mississippi Development Authority shall promulgate rules and regulations, in

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accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (15).

(16) (a) The Mississippi Development Authority, in addition to the other programs described in this section, shall provide for a program of loan guaranties to be made on behalf of certain agribusinesses engaged in sweet potato growing and farming for the purpose of encouraging thereby the extension of conventional financing and the issuance of letters of credit to such agribusinesses by lenders. The amount of a loan guaranty made on behalf of such an agribusiness shall be ninety percent (90%) of the amount of assistance made available by a lender for the purposes authorized under this subsection (16). Monies to make such loan guaranties by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Seventeen Million Dollars (\$17,000,000.00) in the aggregate.

(b) In order to be eligible for assistance under this subsection (16) an agribusiness must:

(i) Have been actively engaged in sweet potato growing and farming in this state before January 1, 2010;

(ii) Have incurred a disaster-related loss for sweet potato growing and farming purposes for calendar year 2009, as determined by a lender;

(iii) Agree to obtain and maintain federal Noninsured Agricultural Program (NAP) insurance coverage for the outstanding balance of any assistance received under this subsection (16); and

(iv) Satisfy underwriting criteria established by a lender related to loans under this subsection (16).

(c) (i) An entity desiring assistance under this subsection must submit an application for assistance to a lender not later than August 1, 2010. The application must include:

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1. Information verifying the length of time the applicant has been actively engaged in sweet potato growing and farming in this state;

2. Information regarding the number of acres used by the applicant for sweet potato growing and farming purposes during the 2009 calendar year, as certified to by the Farm Services Authority (FSA) or the Mississippi Department of Agriculture and Commerce (MDAC), and the number of acres the applicant intends to use for such purposes during the 2010 calendar year;

3. The average cost per acre incurred by the applicant for sweet potato growing and farming purposes during the 2009 calendar year, as certified to by the FSA or MDAC, and an estimate of the average cost per acre to be incurred by the applicant for such purposes during the calendar year for which application is made;

4. The amount of assistance requested;

5. A statement from the applicant agreeing that he will obtain and maintain NAP insurance coverage for the outstanding balance of any assistance received under this subsection (16); and

6. Any other information required by the lender and/or the MDA.

(ii) The lender shall review the application for assistance and determine whether the applicant qualifies for assistance under this subsection (16). If the lender determines that the applicant qualifies for assistance, the lender shall loan funds to the applicant subject to the provisions of this subsection (16).

(d) Loans made under this subsection (16) shall be subject to the following conditions:

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(i) The maximum amount of a loan to a borrower shall not exceed One Thousand Seven Hundred Dollars (\$1,700.00) per acre and shall exclude any machinery and equipment costs.

(ii) The proceeds of a loan may be used only for paying a borrower's sweet potato planting, production and harvesting costs, excluding machinery and equipment costs.

(iii) The proceeds of a loan may not be used to repay, satisfy or finance existing debt.

(iv) The time allowed for repayment of a loan shall not be more than five (5) years, and there shall be no penalty, fee or other charge imposed for the prepayment of a loan.

(e) The receipt of assistance by a person or other entity under any other program described in this section shall not disqualify the person or entity from obtaining a loan under the program established in this subsection (16) if the person or entity is otherwise eligible under this program. In addition, the receipt of a loan by a person or other entity under the program established under this subsection (16) shall not disqualify the person or entity from obtaining assistance under any other program described in this section.

(f) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (16), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (16).

[From and after July 1, 2014, this section shall read as follows:]

69-2-13. (1) There is hereby established in the State Treasury a fund to be known as the "Emerging Crops Fund," which shall be used to pay the interest on loans made to farmers for nonland capital costs of establishing production of emerging crops on land in Mississippi, and to make loans and grants which are

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authorized under this section to be made from the fund. The fund shall be administered by the Mississippi Development Authority. A board comprised of the directors of the authority, the Mississippi Cooperative Extension Service, the Mississippi Small Farm Development Center and the Mississippi Agricultural and Forestry Experiment Station, or their designees, shall develop definitions, guidelines and procedures for the implementation of this chapter. Funds for the Emerging Crops Fund shall be provided from the issuance of bonds or notes under Sections 69-2-19 through 69-2-37 and from repayment of interest loans made from the fund.

(2) (a) The Mississippi Development Authority shall develop a program which gives fair consideration to making loans for the processing and manufacturing of goods and services by agribusiness, greenhouse production horticulture, and small business concerns. It is the policy of the State of Mississippi that the Mississippi Development Authority shall give due recognition to and shall aid, counsel, assist and protect, insofar as is possible, the interests of agribusiness, greenhouse production horticulture, and small business concerns. To ensure that the purposes of this subsection are carried out, the Mississippi Development Authority shall loan not more than One Million Dollars (\$1,000,000.00) to finance any single agribusiness, greenhouse production horticulture, or small business concern. Loans made pursuant to this subsection shall be made in accordance with the criteria established in Section 57-71-11.

(b) The Mississippi Development Authority may, out of the total amount of bonds authorized to be issued under this chapter, make available funds to any planning and development district in accordance with the criteria established in Section 57-71-11. Planning and development districts which receive monies pursuant to this provision shall use such monies to make loans to private companies for purposes consistent with this subsection.

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(c) The Mississippi Development Authority is hereby authorized to engage legal services, financial advisors, appraisers and consultants if needed to review and close loans made hereunder and to establish and assess reasonable fees including, but not limited to, liquidation expenses.

(3) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for a program of loans to be made to agribusiness or greenhouse production horticulture enterprises for the purpose of encouraging thereby the extension of conventional financing and the issuance of letters of credit to such agribusiness or greenhouse production horticulture enterprises by private institutions. Monies to make such loans by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund. The amount of a loan to any single agribusiness or greenhouse production horticulture enterprise under this subsection (3) shall not exceed twenty percent (20%) of the total cost of the project for which financing is sought or Two Hundred Thousand Dollars (\$200,000.00), whichever is less. No interest shall be charged on such loans, and only the amount actually loaned shall be required to be repaid. Repayments shall be deposited into the Emerging Crops Fund. The Mississippi Development Authority also may make loans under this subsection (3) to agribusinesses engaged in poultry production operations for the purpose of assisting such agribusinesses to make upgrades, renovations, repairs and other improvements to their equipment, facilities and operations, which shall not exceed a total cost of Two Hundred Thousand Dollars (\$200,000.00) of the ending cash balance, and the amount of a loan to any single agribusiness for the retrofitting of poultry houses shall not exceed thirty percent (30%) of the total cost of the project for which financing is sought. No interest shall be charged on such loans, and only the amount actually loaned shall be required to be repaid.

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(4) (a) Through June 30, 2010, the Mississippi Development Authority may loan or grant to qualified planning and development districts, and to small business investment corporations, bank-based community development corporations, the Recruitment and Training Program, Inc., the City of Jackson Business Development Loan Fund, the Lorman Southwest Mississippi Development Corporation, the West Jackson Community Development Corporation, the East Mississippi Development Corporation, and other entities meeting the criteria established by the Mississippi Development Authority (all referred to hereinafter as "qualified entities"), funds for the purpose of establishing loan revolving funds to assist in providing financing for minority economic development. The monies loaned or granted by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Twenty-nine Million Dollars (\$29,000,000.00) in the aggregate. Planning and development districts or qualified entities which receive monies pursuant to this provision shall use such monies to make loans to minority business enterprises consistent with criteria established by the Mississippi Development Authority. Such criteria shall include, at a minimum, the following:

(i) The business enterprise must be a private, for-profit enterprise.

(ii) If the business enterprise is a proprietorship, the borrower must be a resident citizen of the State of Mississippi; if the business enterprise is a corporation or partnership, at least fifty percent (50%) of the owners must be resident citizens of the State of Mississippi.

(iii) The borrower must have at least five percent (5%) equity interest in the business enterprise.

(iv) The borrower must demonstrate ability to repay the loan.

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(v) The borrower must not be in default of any previous loan from the state or federal government.

(vi) Loan proceeds may be used for financing all project costs associated with development or expansion of a new small business, including fixed assets, working capital, start-up costs, rental payments, interest expense during construction and professional fees related to the project.

(vii) Loan proceeds shall not be used to pay off existing debt for loan consolidation purposes; to finance the acquisition, construction, improvement or operation of real property which is to be held primarily for sale or investment; to provide for, or free funds, for speculation in any kind of property; or as a loan to owners, partners or stockholders of the applicant which do not change ownership interest by the applicant. However, this does not apply to ordinary compensation for services rendered in the course of business.

(viii) The maximum amount that may be loaned to any one borrower shall be Two Hundred Fifty Thousand Dollars (\$250,000.00).

(ix) The Mississippi Development Authority shall review each loan before it is made, and no loan shall be made to any borrower until the loan has been reviewed and approved by the Mississippi Development Authority.

(b) For the purpose of this subsection, the term "minority business enterprise" means a socially and economically disadvantaged small business concern, organized for profit, performing a commercially useful function which is owned and controlled by one or more minorities or minority business enterprises certified by the Mississippi Development Authority, at least fifty percent (50%) of whom are resident citizens of the State of Mississippi. Except as otherwise provided, for purposes of this subsection, the term "socially and economically disadvantaged small business concern" shall have the meaning

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ascribed to such term under the Small Business Act (15 USCS, Section 637(a)), or women, and the term "owned and controlled" means a business in which one or more minorities or minority business enterprises certified by the Mississippi Development Authority own sixty percent (60%) or, in the case of a corporation, sixty percent (60%) of the voting stock, and control sixty percent (60%) of the management and daily business operations of the business. However, an individual whose personal net worth exceeds Five Hundred Thousand Dollars (\$500,000.00) shall not be considered to be an economically disadvantaged individual.

From and after July 1, 2010, monies not loaned or granted by the Mississippi Development Authority to planning and development districts or qualified entities under this subsection, and monies not loaned by planning and development districts or qualified entities, shall be deposited to the credit of the sinking fund created and maintained in the State Treasury for the retirement of bonds issued under Section 69-2-19.

(c) Notwithstanding any other provision of this subsection to the contrary, if federal funds are not available for commitments made by a planning and development district to provide assistance under any federal loan program administered by the planning and development district in coordination with the Appalachian Regional Commission or Economic Development Administration, or both, a planning and development district may use funds in its loan revolving fund, which have not been committed otherwise to provide assistance, for the purpose of providing temporary funding for such commitments. If a planning and development district uses uncommitted funds in its loan revolving fund to provide such temporary funding, the district shall use funds repaid to the district under the temporarily funded federal loan program to replenish the funds used to provide the temporary funding. Funds used by a planning and development

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district to provide temporary funding under this paragraph (c) must be repaid to the district's loan revolving fund no later than twelve (12) months after the date the district provides the temporary funding. A planning and development district may not use uncommitted funds in its loan revolving fund to provide temporary funding under this paragraph (c) on more than two (2) occasions during a calendar year. A planning and development district may provide temporary funding for multiple commitments on each such occasion. The maximum aggregate amount of uncommitted funds in a loan revolving fund that may be used for such purposes during a calendar year shall not exceed seventy percent (70%) of the uncommitted funds in the loan revolving fund on the date the district first provides temporary funding during the calendar year.

(d) If the Mississippi Development Authority determines that a planning and development district or qualified entity has provided loans to minority businesses in a manner inconsistent with the provisions of this subsection, then the amount of such loans so provided shall be withheld by the Mississippi Development Authority from any additional grant funds to which the planning and development district or qualified entity becomes entitled under this subsection. If the Mississippi Development Authority determines, after notifying such planning and development district or qualified entity twice in writing and providing such planning and development district or qualified entity a reasonable opportunity to comply, that a planning and development district or qualified entity has consistently failed to comply with this subsection, the Mississippi Development Authority may declare such planning and development district or qualified entity in default under this subsection and, upon receipt of notice thereof from the Mississippi Development Authority, such planning and development district or qualified entity shall immediately cease providing loans under this subsection, shall refund to the Mississippi

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Development Authority for distribution to other planning and development districts or qualified entities all funds held in its revolving loan fund and, if required by the Mississippi Development Authority, shall convey to the Mississippi Development Authority all administrative and management control of loans provided by it under this subsection.

(e) If the Mississippi Development Authority determines, after notifying a planning and development district or qualified entity twice in writing and providing copies of such notification to each member of the Legislature in whose district or in a part of whose district such planning and development district or qualified entity is located and providing such planning and development district or qualified entity a reasonable opportunity to take corrective action, that a planning and development district or qualified entity administering a revolving loan fund under the provisions of this subsection is not actively engaged in lending as defined by the rules and regulations of the Mississippi Development Authority, the Mississippi Development Authority may declare such planning and development district or qualified entity in default under this subsection and, upon receipt of notice thereof from the Mississippi Development Authority, such planning and development district or qualified entity shall immediately cease providing loans under this subsection, shall refund to the Mississippi Development Authority for distribution to other planning and development districts or qualified entities all funds held in its revolving loan fund and, if required by the Mississippi Development Authority, shall convey to the Mississippi Development Authority all administrative and management control of loans provided by it under this subsection.

(5) The Mississippi Development Authority shall develop a program which will assist minority business enterprises by guaranteeing bid, performance and payment bonds which such minority businesses are required to obtain in order to contract

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with federal agencies, state agencies or political subdivisions of the state. The Mississippi Development Authority may secure letters of credit, as determined necessary by the authority, to guarantee bid, performance and payment bonds pursuant to this subsection. Monies for such program shall be drawn from the monies allocated under subsection (4) of this section to assist the financing of minority economic development and shall not exceed Three Million Dollars (\$3,000,000.00) in the aggregate. The Mississippi Development Authority may promulgate rules and regulations for the operation of the program established pursuant to this subsection. For the purpose of this subsection (5), the term "minority business enterprise" has the meaning assigned such term in subsection (4) of this section.

(6) The Mississippi Development Authority may loan or grant to public entities and to nonprofit corporations funds to defray the expense of financing (or to match any funds available from other public or private sources for the expense of financing) projects in this state which are devoted to the study, teaching and/or promotion of regional crafts and which are deemed by the authority to be significant tourist attractions. The monies loaned or granted shall be drawn from the Emerging Crops Fund and shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in the aggregate.

(7) Through June 30, 2006, the Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce funds for the purpose of establishing loan revolving funds and other methods of financing for agribusiness programs administered under the Mississippi Agribusiness Council Act of 1993. The monies made available by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed One Million Two Hundred Thousand Dollars (\$1,200,000.00) in the aggregate. The Mississippi Department of Agriculture and Commerce shall establish

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control and auditing procedures for use of these funds. These funds will be used primarily for quick payment to farmers for vegetable and fruit crops processed and sold through vegetable processing plants associated with the Department of Agriculture and Commerce and the Mississippi State Extension Service.

(8) From and after July 1, 1996, the Mississippi Development Authority shall make available to the Mississippi Small Farm Development Center One Million Dollars (\$1,000,000.00) to be used by the center to assist small entrepreneurs as provided in Section 37-101-25, Mississippi Code of 1972. The monies made available by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund.

(9) [Repealed]

(10) The Mississippi Development Authority shall make available to the Small Farm Development Center at Alcorn State University funds in an aggregate amount not to exceed Three Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash balance of the Emerging Crops Fund. The Small Farm Development Center at Alcorn State University shall use such funds to make loans to producers of sweet potatoes and cooperatives anywhere in the State of Mississippi owned by sweet potato producers to assist in the planting of sweet potatoes and the purchase of sweet potato production and harvesting equipment. A report of the loans made under this subsection shall be furnished by January 15 of each year to the Chairman of the Senate Agriculture Committee and the Chairman of the House Agriculture Committee.

(11) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce "Make Mine Mississippi" program an amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from the cash balance of the Emerging Crops Fund.

(12) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and

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Commerce an amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from the cash balance of the Emerging Crops Fund to be used for the rehabilitation and maintenance of the Mississippi Farmers Central Market in Jackson, Mississippi.

(13) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce an amount not to exceed Twenty-five Thousand Dollars (\$25,000.00) to be drawn from the cash balance of the Emerging Crops Fund to be used for advertising purposes related to the Mississippi Farmers Central Market in Jackson, Mississippi.

(14) (a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for a program of loan guaranties to be made on behalf of any nonprofit entity qualified under Section 501(c)(3) of the Internal Revenue Code and certified by the United States Department of the Treasury as a community development financial institution for the purpose of encouraging the extension of financing to such an entity which financing the entity will use to make funds available to other entities for the purpose of making loans available in low-income communities in Mississippi. Monies to make such loan guaranties by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Two Million Dollars (\$2,000,000.00) in the aggregate. The amount of a loan guaranty on behalf of such an entity under this subsection (14) shall not exceed Two Million Dollars (\$2,000,000.00). Assistance received by an entity under this subsection (14) shall not disqualify the entity from obtaining any other assistance under this chapter.

(b) An entity desiring assistance under this subsection (14) must submit an application to the Mississippi Development Authority. The application must include any information required by the Mississippi Development Authority.

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(c) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (14), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (14).

(15) (a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for a program of grants to agribusiness enterprises that process, dry, store or ship peanuts and if the enterprise has invested prior to April 17, 2009, a minimum of Six Million Dollars (\$6,000,000.00) in land, facilities and equipment in this state that are utilized to process, dry, store or ship peanuts. Monies to make such grants by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed One Million Dollars (\$1,000,000.00) in the aggregate. The amount of a grant under this subsection (15) shall not exceed One Million Dollars (\$1,000,000.00).

(b) An entity desiring assistance under this subsection (15) must submit an application to the Mississippi Development Authority. The application must include a description of the project for which assistance is requested, the cost of the project for which assistance is requested, the amount of assistance requested and any other information required by the Mississippi Development Authority.

(c) As a condition of the receipt of a grant under this subsection (15), an entity must agree to remain in business in this state for not less than five (5) years and must meet other conditions established by the Mississippi Development Authority to ensure that the assistance results in an economic benefit to the state. The Mississippi Development Authority shall require that binding commitments be entered into requiring that:

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(i) The minimum requirements provided for in this subsection (15) and the conditions established by the Mississippi Development Authority are met; and

(ii) If such commitments and conditions are not met, all or a portion of the funds provided pursuant to this subsection (15) shall be repaid.

(d) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (15), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (15).

(16) (a) The Mississippi Development Authority, in addition to the other programs described in this section, shall provide for a program of loan guaranties to be made on behalf of certain agribusinesses engaged in sweet potato growing and farming for the purpose of encouraging thereby the extension of conventional financing and the issuance of letters of credit to such agribusinesses by lenders. The amount of a loan guaranty made on behalf of such an agribusiness shall be ninety percent (90%) of the amount of assistance made available by a lender for the purposes authorized under this subsection (16). Monies to make such loan guaranties by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Seventeen Million Dollars (\$17,000,000.00) in the aggregate.

(b) In order to be eligible for assistance under this subsection (16) an agribusiness must:

(i) Have been actively engaged in sweet potato growing and farming in this state before January 1, 2010;

(ii) Have incurred a disaster-related loss for sweet potato growing and farming purposes for calendar year 2009, as determined by a lender;

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(iii) Agree to obtain and maintain federal Noninsured Agricultural Program (NAP) insurance coverage for the outstanding balance of any assistance received under this subsection (16); and

(iv) Satisfy underwriting criteria established by a lender related to loans under this subsection (16).

(c) (i) An entity desiring assistance under this subsection must submit an application for assistance to a lender not later than August 1, 2010. The application must include:

1. Information verifying the length of time the applicant has been actively engaged in sweet potato growing and farming in this state;

2. Information regarding the number of acres used by the applicant for sweet potato growing and farming purposes during the 2009 calendar year, as certified to by the Farm Services Authority (FSA) or the Mississippi Department of Agriculture and Commerce (MDAC), and the number of acres the applicant intends to use for such purposes during the 2010 calendar year;

3. The average cost per acre incurred by the applicant for sweet potato growing and farming purposes during the 2009 calendar year, as certified to by the FSA or MDAC, and an estimate of the average cost per acre to be incurred by the applicant for such purposes during the calendar year for which application is made;

4. The amount of assistance requested;

5. A statement from the applicant agreeing that he will obtain and maintain NAP insurance coverage for the outstanding balance of any assistance received under this subsection (16); and

6. Any other information required by the lender and/or the MDA.

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(ii) The lender shall review the application for assistance and determine whether the applicant qualifies for assistance under this subsection (16). If the lender determines that the applicant qualifies for assistance, the lender shall loan funds to the applicant subject to the provisions of this subsection (16).

(d) Loans made under this subsection (16) shall be subject to the following conditions:

(i) The maximum amount of a loan to a borrower shall not exceed One Thousand Seven Hundred Dollars (\$1,700.00) per acre and shall exclude any machinery and equipment costs.

(ii) The proceeds of a loan may be used only for paying a borrower's sweet potato planting, production and harvesting costs, excluding machinery and equipment costs.

(iii) The proceeds of a loan may not be used to repay, satisfy or finance existing debt.

(iv) The time allowed for repayment of a loan shall not be more than five (5) years, and there shall be no penalty, fee or other charge imposed for the prepayment of a loan.

(e) The receipt of assistance by a person or other entity under any other program described in this section shall not disqualify the person or entity from obtaining a loan under the program established in this subsection (16) if the person or entity is otherwise eligible under this program. In addition, the receipt of a loan by a person or other entity under the program established under this subsection (16) shall not disqualify the person or entity from obtaining assistance under any other program described in this section.

(f) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (16), and the Mississippi Development Authority shall promulgate rules and regulations, in

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accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (16).

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 695

Description: Gun permits; revise reciprocity.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Judiciary B
- 2 02/23 (H) Title Suff Do Pass
- 3 02/28 (H) Passed Vote
- 4 02/29 (H) Transmitted To Senate
- 5 03/07 (S) Referred To Judiciary, Division A
- 6 03/29 (S) Title Suff Do Pass
- 7 04/04 (S) Passed Vote
- 8 04/05 (S) Transmitted To House
- 9 04/11 (S) Enrolled Bill Signed
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/17 Approved by Governor

Code Section: A 045-0009-0101

----- Additional Information -----

House Committee: Judiciary B

Senate Committee: Judiciary, Division A

Principal Author: Moore

Additional Authors: Formby, Alday, Beckett, Bounds, Boyd, Brown (20th), Busby, Carpenter, Chism, Crawford, Currie, DeBar, Denny, Frierson, Howell, Ladner, Martinson, McGee, McLod, Mims, Monsour, Morgan, Rogers (61st), Staples, Upshaw, Weathersby, Hood

2012 GENERAL LAWS OF MISSISSIPPI, HB 695

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Moore, Formby, Alday,
Beckett, Bounds, Boyd, Brown (20th), Busby,
Carpenter, Chism, Crawford, Currie, DeBar,
Denny, Frierson, Howell, Ladner, Martinson,
McGee, McLeod, Mims, Monsour, Morgan, Rogers
(61st), Staples, Upshaw, Weathersby, Hood

To: Judiciary B

HOUSE BILL NO. 695

AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972, TO REVISE RECIPROCITY IN THE CONCEALED WEAPONS PERMIT LAW; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 45-9-101, Mississippi Code of 1972, is amended as follows:

45-9-101. (1) (a) The Department of Public Safety is authorized to issue licenses to carry stun guns, concealed pistols or revolvers to persons qualified as provided in this section. Such licenses shall be valid throughout the state for a period of five (5) years from the date of issuance. Any person possessing a valid license issued pursuant to this section may carry a stun gun, concealed pistol or concealed revolver.

(b) The licensee must carry the license, together with valid identification, at all times in which the licensee is carrying a stun gun, concealed pistol or revolver and must display both the license and proper identification upon demand by a law enforcement officer. A violation of the provisions of this paragraph (b) shall constitute a noncriminal violation with a penalty of Twenty-five Dollars (\$25.00) and shall be enforceable by summons.

(2) The Department of Public Safety shall issue a license if the applicant:

(a) Is a resident of the state and has been a resident for twelve (12) months or longer immediately preceding the filing of the application. However, this residency requirement may be waived, provided the applicant possesses a valid permit from

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another state, is active military personnel stationed in Mississippi, or is a retired law enforcement officer establishing residency in the state;

(b) Is twenty-one (21) years of age or older;

(c) Does not suffer from a physical infirmity which prevents the safe handling of a stun gun, pistol or revolver;

(d) Is not ineligible to possess a firearm by virtue of having been convicted of a felony in a court of this state, of any other state, or of the United States without having been pardoned for same;

(e) Does not chronically or habitually abuse controlled substances to the extent that his normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses controlled substances to the extent that his faculties are impaired if the applicant has been voluntarily or involuntarily committed to a treatment facility for the abuse of a controlled substance or been found guilty of a crime under the provisions of the Uniform Controlled Substances Law or similar laws of any other state or the United States relating to controlled substances within a three-year period immediately preceding the date on which the application is submitted;

(f) Does not chronically and habitually use alcoholic beverages to the extent that his normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages to the extent that his normal faculties are impaired if the applicant has been voluntarily or involuntarily committed as an alcoholic to a treatment facility or has been convicted of two (2) or more offenses related to the use of alcohol under the laws of this state or similar laws of any other state or the United States within the three-year period immediately preceding the date on which the application is submitted;

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(g) Desires a legal means to carry a stun gun, concealed pistol or revolver to defend himself;

(h) Has not been adjudicated mentally incompetent, or has waited five (5) years from the date of his restoration to capacity by court order;

(i) Has not been voluntarily or involuntarily committed to a mental institution or mental health treatment facility unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of five (5) years;

(j) Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony unless three (3) years have elapsed since probation or any other conditions set by the court have been fulfilled;

(k) Is not a fugitive from justice; and

(l) Is not disqualified to possess or own a weapon based on federal law.

(3) The Department of Public Safety may deny a license if the applicant has been found guilty of one or more crimes of violence constituting a misdemeanor unless three (3) years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred prior to the date on which the application is submitted, or may revoke a license if the licensee has been found guilty of one or more crimes of violence within the preceding three (3) years. The department shall, upon notification by a law enforcement agency or a court and subsequent written verification, suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime which would disqualify such person from having a license under this section, until final disposition of the case. The provisions of subsection (7) of this section shall apply to any suspension or revocation of a license pursuant to the provisions of this section.

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(4) The application shall be completed, under oath, on a form promulgated by the Department of Public Safety and shall include only:

(a) The name, address, place and date of birth, race, sex and occupation of the applicant;

(b) The driver's license number or social security number of applicant;

(c) Any previous address of the applicant for the two (2) years preceding the date of the application;

(d) A statement that the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;

(e) A statement that the applicant has been furnished a copy of this section and is knowledgeable of its provisions;

(f) A conspicuous warning that the application is executed under oath and that a knowingly false answer to any question, or the knowing submission of any false document by the applicant, subjects the applicant to criminal prosecution; and

(g) A statement that the applicant desires a legal means to carry a stun gun, concealed pistol or revolver to defend himself.

(5) The applicant shall submit only the following to the Department of Public Safety:

(a) A completed application as described in subsection (4) of this section;

(b) A full-face photograph of the applicant taken within the preceding thirty (30) days in which the head, including hair, in a size as determined by the Department of Public Safety;

(c) A nonrefundable license fee of One Hundred Dollars (\$100.00). Costs for processing the set of fingerprints as required in paragraph (d) of this subsection shall be borne by the applicant. Honorably retired law enforcement officers shall be exempt from the payment of the license fee;

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(d) A full set of fingerprints of the applicant administered by the Department of Public Safety; and

(e) A waiver authorizing the Department of Public Safety access to any records concerning commitments of the applicant to any of the treatment facilities or institutions referred to in subsection (2) and permitting access to all the applicant's criminal records.

(6) (a) The Department of Public Safety, upon receipt of the items listed in subsection (5) of this section, shall forward the full set of fingerprints of the applicant to the appropriate agencies for state and federal processing.

(b) The Department of Public Safety shall forward a copy of the applicant's application to the sheriff of the applicant's county of residence and, if applicable, the police chief of the applicant's municipality of residence. The sheriff of the applicant's county of residence and, if applicable, the police chief of the applicant's municipality of residence may, at his discretion, participate in the process by submitting a voluntary report to the Department of Public Safety containing any readily discoverable prior information that he feels may be pertinent to the licensing of any applicant. The reporting shall be made within thirty (30) days after the date he receives the copy of the application. Upon receipt of a response from a sheriff or police chief, such sheriff or police chief shall be reimbursed at a rate set by the department.

(c) The Department of Public Safety shall, within forty-five (45) days after the date of receipt of the items listed in subsection (5) of this section:

(i) Issue the license;

(ii) Deny the application based solely on the ground that the applicant fails to qualify under the criteria listed in subsections (2) and (3) of this section. If the Department of Public Safety denies the application, it shall

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notify the applicant in writing, stating the ground for denial, and the denial shall be subject to the appeal process set forth in subsection (7); or

(iii) Notify the applicant that the department is unable to make a determination regarding the issuance or denial of a license within the forty-five-day period prescribed by this subsection, and provide an estimate of the amount of time the department will need to make the determination.

(d) In the event a legible set of fingerprints, as determined by the Department of Public Safety and the Federal Bureau of Investigation, cannot be obtained after a minimum of two (2) attempts, the Department of Public Safety shall determine eligibility based upon a name check by the Mississippi Highway Safety Patrol and a Federal Bureau of Investigation name check conducted by the Mississippi Highway Safety Patrol at the request of the Department of Public Safety.

(7) (a) If the Department of Public Safety denies the issuance of a license, or suspends or revokes a license, the party aggrieved may appeal such denial, suspension or revocation to the Commissioner of Public Safety, or his authorized agent, within thirty (30) days after the aggrieved party receives written notice of such denial, suspension or revocation. The Commissioner of Public Safety, or his duly authorized agent, shall rule upon such appeal within thirty (30) days after the appeal is filed and failure to rule within this thirty-day period shall constitute sustaining such denial, suspension or revocation. Such review shall be conducted pursuant to such reasonable rules and regulations as the Commissioner of Public Safety may adopt.

(b) If the revocation, suspension or denial of issuance is sustained by the Commissioner of Public Safety, or his duly authorized agent pursuant to paragraph (a) of this subsection, the aggrieved party may file within ten (10) days after the rendition of such decision a petition in the circuit or county court of his

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residence for review of such decision. A hearing for review shall be held and shall proceed before the court without a jury upon the record made at the hearing before the Commissioner of Public Safety or his duly authorized agent. No such party shall be allowed to carry a stun gun, concealed pistol or revolver pursuant to the provisions of this section while any such appeal is pending.

(8) The Department of Public Safety shall maintain an automated listing of license holders and such information shall be available online, upon request, at all times, to all law enforcement agencies through the Mississippi Crime Information Center. However, the records of the department relating to applications for licenses to carry stun guns, concealed pistols or revolvers and records relating to license holders shall be exempt from the provisions of the Mississippi Public Records Act of 1983 for a period of forty-five (45) days from the date of the issuance of the license or the final denial of an application.

(9) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after having a license lost or destroyed, the licensee shall notify the Department of Public Safety in writing of such change or loss. Failure to notify the Department of Public Safety pursuant to the provisions of this subsection shall constitute a noncriminal violation with a penalty of Twenty-five Dollars (\$25.00) and shall be enforceable by a summons.

(10) In the event that a stun gun, concealed pistol or revolver license is lost or destroyed, the person to whom the license was issued shall comply with the provisions of subsection (9) of this section and may obtain a duplicate, or substitute thereof, upon payment of Fifteen Dollars (\$15.00) to the Department of Public Safety, and furnishing a notarized statement to the department that such license has been lost or destroyed.

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(11) A license issued under this section shall be revoked if the licensee becomes ineligible under the criteria set forth in subsection (2) of this section.

(12) (a) No less than ninety (90) days prior to the expiration date of the license, the Department of Public Safety shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the department. The licensee must renew his license on or before the expiration date by filing with the department the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and a full set of fingerprints administered by the Department of Public Safety or the sheriff of the county of residence of the licensee. The first renewal may be processed by mail and the subsequent renewal must be made in person. Thereafter every other renewal may be processed by mail to assure that the applicant must appear in person every ten (10) years for the purpose of obtaining a new photograph.

(i) Except as provided in this subsection, a renewal fee of Fifty Dollars (\$50.00) shall also be submitted along with costs for processing the fingerprints;

(ii) Honorably retired law enforcement officers shall be exempt from the renewal fee; and

(iii) The renewal fee for a Mississippi resident aged sixty-five (65) years of age or older shall be Twenty-five Dollars (\$25.00).

(b) The Department of Public Safety shall forward the full set of fingerprints of the applicant to the appropriate agencies for state and federal processing. The license shall be renewed upon receipt of the completed renewal application and appropriate payment of fees.

(c) A licensee who fails to file a renewal application on or before its expiration date must renew his license by paying

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a late fee of Fifteen Dollars (\$15.00). No license shall be renewed six (6) months or more after its expiration date, and such license shall be deemed to be permanently expired. A person whose license has been permanently expired may reapply for licensure; however, an application for licensure and fees pursuant to subsection (5) of this section must be submitted, and a background investigation shall be conducted pursuant to the provisions of this section.

(13) No license issued pursuant to this section shall authorize any person to carry a stun gun, concealed pistol or revolver into any place of nuisance as defined in Section 95-3-1, Mississippi Code of 1972; any police, sheriff or highway patrol station; any detention facility, prison or jail; any courthouse; any courtroom, except that nothing in this section shall preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his courtroom; any polling place; any meeting place of the governing body of any governmental entity; any meeting of the Legislature or a committee thereof; any school, college or professional athletic event not related to firearms; any portion of an establishment, licensed to dispense alcoholic beverages for consumption on the premises, that is primarily devoted to dispensing alcoholic beverages; any portion of an establishment in which beer or light wine is consumed on the premises, that is primarily devoted to such purpose; any elementary or secondary school facility; any junior college, community college, college or university facility unless for the purpose of participating in any authorized firearms-related activity; inside the passenger terminal of any airport, except that no person shall be prohibited from carrying any legal firearm into the terminal if the firearm is encased for shipment, for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; any church or other place of worship; or any place where the carrying of firearms is prohibited by

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federal law. In addition to the places enumerated in this subsection, the carrying of a stun gun, concealed pistol or revolver may be disallowed in any place in the discretion of the person or entity exercising control over the physical location of such place by the placing of a written notice clearly readable at a distance of not less than ten (10) feet that the "carrying of a pistol or revolver is prohibited." No license issued pursuant to this section shall authorize the participants in a parade or demonstration for which a permit is required to carry a stun gun, concealed pistol or revolver.

(14) A law enforcement officer as defined in Section 45-6-3, chiefs of police, sheriffs and persons licensed as professional bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of 1972, shall be exempt from the licensing requirements of this section.

(15) Any person who knowingly submits a false answer to any question on an application for a license issued pursuant to this section, or who knowingly submits a false document when applying for a license issued pursuant to this section, shall, upon conviction, be guilty of a misdemeanor and shall be punished as provided in Section 99-19-31, Mississippi Code of 1972.

(16) All fees collected by the Department of Public Safety pursuant to this section shall be deposited into a special fund hereby created in the State Treasury and shall be used for implementation and administration of this section. After the close of each fiscal year, the balance in this fund shall be certified to the Legislature and then may be used by the Department of Public Safety as directed by the Legislature.

(17) All funds received by a sheriff or police chief pursuant to the provisions of this section shall be deposited into the general fund of the county or municipality, as appropriate, and shall be budgeted to the sheriff's office or police department as appropriate.

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(18) Nothing in this section shall be construed to require or allow the registration, documentation or providing of serial numbers with regard to any stun gun or firearm. Further, nothing in this section shall be construed to allow the open and unconcealed carrying of any stun gun or a deadly weapon as described in Section 97-37-1, Mississippi Code of 1972.

(19) Any person holding a valid unrevoked and unexpired license to carry stun guns, concealed pistols or revolvers issued in another state shall have such license recognized by this state to carry stun guns, concealed pistols or revolvers. The Department of Public Safety is authorized to enter into a reciprocal agreement with another state if that state requires a written agreement in order to recognize licenses to carry stun guns, concealed pistols or revolvers issued by this state.

(20) The provisions of this section shall be under the supervision of the Commissioner of Public Safety. The commissioner is authorized to promulgate reasonable rules and regulations to carry out the provisions of this section.

(21) For the purposes of this section, the term "stun gun" means a portable device or weapon from which an electric current, impulse, wave or beam may be directed, which current, impulse, wave or beam is designed to incapacitate temporarily, injure, momentarily stun, knock out, cause mental disorientation or paralyze.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 703

Description: State employees health insurance plan; extend repealer on requirement that state pay certain amounts toward cost of.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Insurance
- 2 02/29 (H) Title Suff Do Pass
- 3 03/08 (H) Passed (Vote)
- 4 03/09 (H) Transmitted To Senate
- 5 03/15 (S) Referred To Insurance
- 6 03/21 (S) Title Suff Do Pass
- 7 04/04 (S) Passed (Vote)
- 8 04/05 (S) Transmitted To House
- 9 04/11 (S) Enrolled Bill Signed
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/17 Approved by Governor

Code Section: A 025-0015-0015

---- Additional Information ----

House Committee: Insurance

Senate Committee: Insurance

Principal Author: Formby

2012 GENERAL LAWS OF MISSISSIPPI, HB 703

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Formby

To: Insurance

HOUSE BILL NO. 703

AN ACT TO AMEND SECTION 25-15-15, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON THE REQUIREMENT THAT THE STATE OF MISSISSIPPI PAY CERTAIN AMOUNTS TOWARD THE COST OF THE STATE EMPLOYEES HEALTH INSURANCE PLAN; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-15-15, Mississippi Code of 1972, is amended as follows:

[Through June 30 of the year in which Section 25-11-143 becomes effective as provided in subsection (1) of Section 25-11-143, this section shall read as follows:]

25-15-15. (1) The board is authorized to determine the manner in which premiums and contributions by the state agencies, local school districts, colleges, universities, community/junior colleges and public libraries shall be collected to provide the self-insured health insurance program for employees as provided under this article. The state shall provide fifty percent (50%) of the cost of the above life insurance plan for all active full-time employees. The state shall provide one hundred percent (100%) of the cost of the health insurance plan for active full-time employees initially employed before January 1, 2006, except as otherwise provided in this section. For active full-time employees initially employed on or after January 1, 2006, the state shall provide one hundred percent (100%) of the cost of a basic level of health insurance, except as otherwise provided in this section, and the employees may pay additional amounts to purchase additional benefits or levels of coverage offered under the plan. The board, if determined to be necessary, may assess active full-time employees a portion of the active

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employee premium in an amount not to exceed Twenty Dollars (\$20.00) per month, notwithstanding any language in this section to the contrary. All active full-time employees shall be given the opportunity to purchase coverage for their eligible dependents with the premiums for such dependent coverage, as well as the employee's fifty percent (50%) share for his life insurance coverage, to be deductible from the employee's salary by the agency, department or institution head, which deductions, together with the fifty percent (50%) share of such life insurance premiums of such employing agency, department or institution head from funds appropriated to or authorized to be expended by the employing agency, department or institution head, shall be deposited directly into a depository bank or special fund in the State Treasury, as determined by the board. These funds and interest earned on these funds may be used for the disbursement of claims and shall be exempt from the appropriation process.

(2) The state shall provide annually, by line item in the Mississippi Library Commission appropriation bill, such funds to pay one hundred percent (100%) of the cost of health insurance under the State and School Employees Health Insurance Plan, or any lesser percentage of the cost that is not assessed to the employees by the board, for full-time library staff members in each public library in Mississippi initially employed before January 1, 2006. For full-time library staff members initially employed on or after January 1, 2006, the state shall provide one hundred percent (100%) of the cost of a basic level of health insurance under the State and School Employees Health Insurance Plan, or any lesser percentage of the cost that is not assessed to the employees by the board, and the employees may pay additional amounts to purchase additional benefits or levels of coverage offered under the plan. The commission shall allot to each public library a sufficient amount of those funds appropriated to pay the costs of insurance for eligible employees. Any funds so

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appropriated by line item which are not expended during the fiscal year for which such funds were appropriated shall be carried forward for the same purposes during the next succeeding fiscal year. If any premiums for the health insurance and/or late charges and interest penalties are not paid by a public library in a timely manner, as defined by the board, the Mississippi Library Commission, upon notice by the board, shall immediately withhold all subsequent disbursements of funds to that public library.

(3) The state shall annually provide one hundred percent (100%) of the cost of the health insurance plan, or any lesser percentage of the cost that is not assessed to the employees by the board, for public school district employees who work no less than twenty (20) hours during each week and regular nonstudent school bus drivers, if such employees and school bus drivers were initially employed before January 1, 2006. For such employees and school bus drivers initially employed on or after January 1, 2006, the state shall provide one hundred percent (100%) of the cost of a basic level of health insurance under the State and School Employees Health Insurance Plan, or any lesser percentage of the cost that is not assessed to the employees by the board, and the employees may pay additional amounts to purchase additional benefits or levels of coverage offered under the plan. Where federal funding is allowable to defray, in full or in part, the cost of participation in the program by district employees who work no less than twenty (20) hours during the week and regular nonstudent bus drivers, whose salaries are paid, in full or in part, by federal funds, the allowance under this section shall be reduced to the extent of such federal funding. Where the use of federal funds is allowable but not available, it is the intent of the Legislature that school districts contribute the cost of participation for such employees from local funds, except that parent fees for child nutrition programs shall not be increased to cover such cost.

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(4) The state shall provide annually, by line item in the community/junior college appropriation bill, such funds to pay one hundred percent (100%) of the cost of the health insurance plan, or any lesser percentage of the cost that is not assessed to the employees by the board, for community/junior college district employees initially employed before January 1, 2006, who work no less than twenty (20) hours during each week. For such employees initially employed on or after January 1, 2006, the state shall provide one hundred percent (100%) of the cost of a basic level of health insurance under the State and School Employees Health Insurance Plan, or any lesser percentage of the cost that is not assessed to the employees by the board, and the employees may pay additional amounts to purchase additional benefits or levels of coverage offered under the plan.

(5) When the use of federal funding is allowable to defray, in full or in part, the cost of participation in the insurance plan by community/junior college district employees who work no less than twenty (20) hours during each week, whose salaries are paid, in full or in part, by federal funds, the allowance under this section shall be reduced to the extent of the federal funding. Where the use of federal funds is allowable but not available, it is the intent of the Legislature that community/junior college districts contribute the cost of participation for such employees from local funds.

(6) Any community/junior college district may contribute to the cost of coverage for any district employee from local community/junior college district funds, and any public school district may contribute to the cost of coverage for any district employee from nonminimum program funds. Any part of the cost of such coverage for participating employees of public school districts and public community/junior college districts that is not paid by the state shall be paid by the participating

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employees, which shall be deducted from the salaries of the employees in a manner determined by the board.

(7) Any funds appropriated for the cost of insurance by line item in the community/junior colleges appropriation bill which are not expended during the fiscal year for which such funds were appropriated shall be carried forward for the same purposes during the next succeeding fiscal year.

(8) The board may establish and enforce late charges and interest penalties or other penalties for the purpose of requiring the prompt payment of all premiums for life and health insurance permitted under this chapter. All funds in excess of the amount needed for disbursement of claims shall be deposited in a special fund in the State Treasury to be known as the State and School Employees Insurance Fund. The State Treasurer shall invest all funds in the State and School Employees Insurance Fund and all interest earned shall be credited to the State and School Employees Insurance Fund. Such funds shall be placed with one or more depositories of the state and invested on the first day such funds are available for investment in certificates of deposit, repurchase agreements or in United States Treasury bills or as otherwise authorized by law for the investment of Public Employees' Retirement System funds, as long as such investment is made from competitive offering and at the highest and best market rate obtainable consistent with any available investment alternatives; however, such investments shall not be made in shares of stock, common or preferred, or in any other investments which would mature more than one (1) year from the date of investment. The board shall have the authority to draw from this fund periodically such funds as are necessary to operate the self-insurance plan or to pay to the insurance carrier the cost of operation of this plan, it being the purpose to limit the amount of participation by the state to fifty percent (50%) of the cost of the life insurance program and not to limit the contracting for

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additional benefits where the cost will be paid in full by the employee. The state shall not share in the cost of coverage for retired employees.

(9) The board shall also provide for the creation of an Insurance Reserve Fund and funds therein shall be invested by the State Treasurer with all interest earned credited to the State and School Employees Insurance Fund.

(10) Any retired employee electing to purchase retired life and health insurance will have the full cost of such insurance deducted monthly from his State of Mississippi retirement plan check or direct billed for the cost of the premium if the retirement check is insufficient to pay for the premium. If the board determines actuarially that the premium paid by the participating retirees adversely affects the overall cost of the plan to the state, then the board may impose a premium surcharge, not to exceed fifteen percent (15%), upon such participating retired employees who are under the age for Medicare eligibility and who were initially employed before January 1, 2006. For participating retired employees who are under the age for Medicare eligibility and who were initially employed on or after January 1, 2006, the board may impose a premium surcharge in an amount the board determines actuarially to cover the full cost of insurance.

(11) This section shall stand repealed on July 1, 2015.

[From and after July 1 of the year in which Section 25-11-143 becomes effective as provided in subsection (1) of Section 25-11-143, this section shall read as follows:]

25-15-15. (1) The board may determine the manner in which premiums and contributions by the state agencies, local school districts, colleges, universities, community/junior colleges and public libraries will be collected to provide the self-insured health insurance program for employees as provided under this article. The state shall provide fifty percent (50%) of the cost of the above life insurance plan for all active full-time

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employees. The state shall provide one hundred percent (100%) of the cost of the health insurance plan for active full-time employees initially employed before January 1, 2006, except as otherwise provided in this section. For active full-time employees initially employed on or after January 1, 2006, the state shall provide one hundred percent (100%) of the cost of a basic level of health insurance, except as otherwise provided in this section, and the employees may pay additional amounts to purchase additional benefits or levels of coverage offered under the plan. The board, if determined to be necessary, may assess active full-time employees a portion of the active employee premium in an amount not to exceed Twenty Dollars (\$20.00) per month, notwithstanding any language in this section to the contrary. All active full-time employees shall be given the opportunity to purchase coverage for their eligible dependents with the premiums for the dependent coverage, as well as the employee's fifty percent (50%) share for his life insurance coverage, to be deductible from the employee's salary by the agency, department or institution head. Those deductions, together with the fifty percent (50%) share of the life insurance premiums of the employing agency, department or institution head from funds appropriated to or authorized to be expended by the employing agency, department or institution head, shall be deposited directly into a depository bank or special fund in the State Treasury, as determined by the board. These funds and interest earned on these funds may be used for the disbursement of claims and shall be exempt from the appropriation process.

(2) The state shall provide annually, by line item in the Mississippi Library Commission appropriation bill, the funds to pay one hundred percent (100%) of the cost of health insurance under the State and School Employees Health Insurance Plan, or any lesser percentage of the cost that is not assessed to the employees by the board, for all full-time library staff members in

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each public library in Mississippi initially employed before January 1, 2006. For full-time library staff members initially employed on or after January 1, 2006, the state shall provide one hundred percent (100%) of the cost of a basic level of health insurance under the State and School Employees Health Insurance Plan, or any lesser percentage of the cost that is not assessed to the employees by the board, and the employees may pay additional amounts to purchase additional benefits or levels of coverage offered under the plan. The commission shall allot to each public library a sufficient amount of those funds appropriated to pay the costs of insurance for eligible employees. Any funds so appropriated by line item that are not expended during the fiscal year for which the funds were appropriated shall be carried forward for the same purposes during the next succeeding fiscal year. If any premiums for the health insurance and/or late charges and interest penalties are not paid by a public library in a timely manner, as defined by the board, the Mississippi Library Commission, upon notice by the board, shall immediately withhold all subsequent disbursements of funds to that public library.

(3) The state shall annually provide one hundred percent (100%) of the cost of the health insurance plan, or any lesser percentage of the cost that is not assessed to the employees by the board, for public school district employees who work no less than twenty (20) hours during each week and regular nonstudent school bus drivers, if such employees and school bus drivers were initially employed before January 1, 2006. For such employees and school bus drivers initially employed on or after January 1, 2006, the state shall provide one hundred percent (100%) of the cost of a basic level of health insurance under the State and School Employees Health Insurance Plan, or any lesser percentage of the cost that is not assessed to the employees by the board, and the employees may pay additional amounts to purchase additional benefits or levels of coverage offered under the plan. Where

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federal funding is allowable to defray, in full or in part, the cost of participation in the program by district employees who work no less than twenty (20) hours during the week and regular nonstudent bus drivers, whose salaries are paid, in full or in part, by federal funds, the allowance under this section shall be reduced to the extent of that federal funding. Where the use of federal funds is allowable but not available, it is the intent of the Legislature that school districts contribute the cost of participation for the employees from local funds, except that parent fees for child nutrition programs shall not be increased to cover that cost.

(4) The state shall provide annually, by line item in the community/junior college appropriation bill, the funds to pay one hundred percent (100%) of the cost of the health insurance plan, or any lesser percentage of the cost that is not assessed to the employees by the board, for community/junior college district employees initially employed before January 1, 2006, who work no less than twenty (20) hours during each week. For such employees initially employed on or after January 1, 2006, the state shall provide one hundred percent (100%) of the cost of a basic level of health insurance under the State and School Employees Health Insurance Plan, or any lesser percentage of the cost that is not assessed to the employees by the board, and the employees may pay additional amounts to purchase additional benefits or levels of coverage offered under the plan.

(5) When the use of federal funding is allowable to defray, in full or in part, the cost of participation in the insurance plan by community/junior college district employees who work no less than twenty (20) hours during each week, whose salaries are paid, in full or in part, by federal funds, the allowance under this section shall be reduced to the extent of the federal funding. Where the use of federal funds is allowable but not available, it is the intent of the Legislature that

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community/junior college districts contribute the cost of participation for the employees from local funds.

(6) Any community/junior college district may contribute to the cost of coverage for any district employee from local community/junior college district funds, and any public school district may contribute to the cost of coverage for any district employee from nonminimum program funds. Any part of the cost of the coverage for participating employees of public school districts and public community/junior college districts that is not paid by the state shall be paid by the participating employees, which shall be deducted from the salaries of the employees in a manner determined by the board.

(7) Any funds appropriated for the cost of insurance by line item in the community/junior colleges appropriation bill that are not expended during the fiscal year for which the funds were appropriated shall be carried forward for the same purposes during the next succeeding fiscal year.

(8) The board may establish and enforce late charges and interest penalties or other penalties for the purpose of requiring the prompt payment of all premiums for life and health insurance permitted under Chapter 15 of Title 25. All funds in excess of the amount needed for disbursement of claims shall be deposited in a special fund in the State Treasury to be known as the State and School Employees Insurance Fund. The State Treasurer shall invest all funds in the State and School Employees Insurance Fund and all interest earned shall be credited to the State and School Employees Insurance Fund. Those funds shall be placed with one or more depositories of the state and invested on the first day that the funds are available for investment in certificates of deposit, repurchase agreements or in United States Treasury bills or as otherwise authorized by law for the investment of Public Employees' Retirement System funds, as long as the investment is

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made from competitive offering and at the highest and best market rate obtainable consistent with any available investment alternatives. However, those investments shall not be made in shares of stock, common or preferred, or in any other investments that would mature more than one (1) year from the date of investment. The board shall have the authority to draw from this fund periodically such funds as are necessary to operate the self-insurance plan or to pay to the insurance carrier the cost of operation of this plan, it being the purpose to limit the amount of participation by the state to fifty percent (50%) of the cost of the life insurance program and not to limit the contracting for additional benefits where the cost will be paid in full by the employee.

(9) The board shall also provide for the creation of an Insurance Reserve Fund, and funds in the reserve fund shall be invested by the State Treasurer with all interest earned credited to the State and School Employees Insurance Fund.

(10) This section shall stand repealed on July 1, 2015.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 710

Description: Tony Gobar Individualized Assessment and Comprehensive Community Intervention Initiative Program; remove repealer on.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Youth and Family Affairs
- 2 02/29 (H) Title Suff Do Pass Comm Sub
- 3 03/08 (H) Committee Substitute Adopted
- 4 03/08 (H) Passed (Vote)
- 5 03/09 (H) Transmitted To Senate
- 6 03/16 (S) Referred To Judiciary, Division B
- 7 04/03 (S) Title Suff Do Pass
- 8 04/05 (S) Passed (Vote)
- 9 04/09 (S) Transmitted To House
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/12 (S) Enrolled Bill Signed
- 12 04/18 Approved by Governor

Code Section: A 043-0021-0803

----- Additional Information -----

House Committee: Youth and Family Affairs

Senate Committee: Judiciary, Division B

Principal Author: Formby

2012 GENERAL LAWS OF MISSISSIPPI, HB 710

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Formby

To: Youth and Family Affairs

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 710

AN ACT TO AMEND SECTION 43-21-803, MISSISSIPPI CODE OF 1972, WHICH ESTABLISHES THE TONY GOBAR INDIVIDUALIZED ASSESSMENT AND COMPREHENSIVE COMMUNITY INTERVENTION INITIATIVE (IACCII) PROGRAM AND SPECIAL FUND UNDER THE ADMINISTRATION OF THE DEPARTMENT OF HUMAN SERVICES, TO REMOVE THE DATE OF REPEAL ON THIS PROVISION OF LAW; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 43-21-803, Mississippi Code of 1972, is amended as follows:

43-21-803. (1) There is established the Tony Gobar Individualized Assessment and Comprehensive Community Intervention Initiative (IACCII) Program for the purposes of:

(a) (i) Providing comprehensive strength-based needs assessments, individualized treatment plans and community-based services for certain youth who would otherwise be committed to the training schools. The IACCII ensures that youth and their families can access necessary services available in their home communities; and

(ii) Providing grants to faith-based organizations and nonprofit 501(c)(3) organizations that develop and operate community-based alternatives to the training schools and detention centers. In order to be eligible for a grant under this paragraph, a faith-based or nonprofit 501(c)(3) organization in cooperation with a youth court must develop and operate a juvenile justice alternative sanction designed for delinquent youths. The program must be designed to decrease reliance on commitment in juvenile detention facilities and training schools.

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(b) Programs established pursuant to this subsection must not duplicate existing programs or services and must incorporate best practices principles and positive behavioral interventions. The Department of Human Services shall have sole authority and power to determine the programs to be funded pursuant to this section.

(2) A faith-based or nonprofit 501(c)(3) must submit an application to the Department of Human Services. The application must include a description of the purpose for which assistance is requested, the amount of assistance requested and any other information required by the Department of Human Services.

(3) The Department of Human Services shall have all powers necessary to implement and administer the program established under this section, and the department shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

(4) (a) There is created in the State Treasury a special fund to be designated as the "Tony Gobar IACCII Fund," which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the Division of Youth Services for the purposes described in this section.

(b) (i) During the regular legislative session held in calendar year 2007, the Legislature may appropriate an amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) to the Tony Gobar IACCII Fund.

(ii) During each regular legislative session subsequent to the 2007 Regular Session, the Legislature shall

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appropriate Two Million Five Hundred Thousand Dollars (\$2,500,000.00) to the Tony Gobar IACCII Fund.

* * *

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 726

Description: State Chief Assistant Deputy Fire Marshal; authorize position of.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Insurance; Appropriations
- 2 02/28 (H) DR - TSDP: IN To AP
- 3 03/06 (H) DR - TSDP: AP To IN
- 4 03/06 (H) Title Suff Do Pass
- 5 03/09 (H) Passed Vote
- 6 03/12 (H) Transmitted To Senate
- 7 03/15 (S) Referred To Insurance
- 8 03/21 (S) Title Suff Do Pass
- 9 04/04 (S) Passed Vote
- 10 04/05 (S) Transmitted To House
- 11 04/11 (S) Enrolled Bill Signed
- 12 04/11 (H) Enrolled Bill Signed
- 13 04/17 Approved by Governor

Code Section: A 045-0011-0001

----- Additional Information -----

House Committee: Insurance, Appropriations

Senate Committee: Insurance

Principal Author: Chism

2012 GENERAL LAWS OF MISSISSIPPI, HB 726

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Chism

To: Insurance;
Appropriations

HOUSE BILL NO. 726

AN ACT TO AMEND SECTION 45-11-1, MISSISSIPPI CODE OF 1972, TO ALLOW THE STATE CHIEF DEPUTY FIRE MARSHAL TO APPOINT, WITH THE CONSENT OF THE COMMISSIONER OF INSURANCE, A STATE CHIEF ASSISTANT DEPUTY FIRE MARSHAL; THE CHIEF ASSISTANT DEPUTY SHALL SERVE AT THE WILL AND PLEASURE OF THE COMMISSIONER OF INSURANCE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 45-11-1, Mississippi Code of 1972, is amended as follows:

45-11-1. (1) The Commissioner of Insurance is by virtue of his office the State Fire Marshal and shall appoint the State Chief Deputy Fire Marshal who, along with his employees, shall be designated as a division of the Insurance Department. The State Chief Deputy Fire Marshal shall be a person qualified by experience and training and thoroughly knowledgeable in the areas of arson investigation and prevention, fire prevention, fire fighting and the training of firemen. The State Chief Deputy Fire Marshal shall serve at the will and pleasure of the Commissioner of Insurance.

(2) The State Chief Deputy Fire Marshal shall employ such deputy state fire marshals as are necessary and in accordance with availability of funds. Deputy fire marshals shall be deployed across the state in order to provide effective service to fire scenes.

(3) It shall be the duty of the State Chief Deputy Fire Marshal to investigate, by himself or his deputy, the origin of every fire occurring within the state to which his attention is called by the chief of the fire department or other law

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enforcement authority of any county or municipality. It shall also be his duty to investigate any case requested by any party in interest, whenever, in his judgment, there be sufficient evidence or circumstances indicating that such fire may be of incendiary origin. All county and municipal law enforcement authorities shall cooperate with the State Chief Deputy Fire Marshal in such investigation. This section shall not be construed to impair the duty and power of county and municipal law enforcement authorities to investigate any fire occurring within his or their jurisdiction.

(4) The State Chief Deputy Fire Marshal shall maintain in his office a record of all fires investigated by him or his deputy, including evidence obtained as to the origin of each such fire.

(5) Such record shall at all times be subject to inspection by any party of interest in the fire loss; provided, however, that no record or report of an investigation shall be subject to inspection pending such investigation or while same is in progress, and if a report of an investigation contains any evidence of arson or other felony, same shall not be subject to inspection by any person other than the district attorney and county attorney of the county in which such evidence indicates that arson or other felony may have been committed, except upon the written approval of such district attorney or the order of a court of competent jurisdiction. Provided that in cases where a person has been arrested for the crimes of arson, attempted arson, or any other felony, the defendant or his attorney shall have access to these records. Any physical evidence of arson or other felony shall be delivered to the custody of the sheriff of the county wherein such fire occurred.

(6) The State Chief Deputy Fire Marshal may appoint, with the consent of the Commissioner of Insurance, a State Chief Assistant Deputy Fire Marshal, who shall have power, during the

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chief deputy's absence or inability to act due to any cause, to perform any and all of the duties of the chief deputy. The chief assistant deputy shall serve at the will and pleasure of the Commissioner of Insurance.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 732

Description: Uniform laws; enact Uniform Principal and Income Act.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: January 1, 2013

History of Actions:

- 1 02/20 (H) Referred To Judiciary A
- 2 02/22 (H) Title Suff Do Pass
- 3 03/07 (H) Passed *(Vote)*
- 4 03/08 (H) Transmitted To Senate
- 5 03/15 (S) Referred To Judiciary, Division A
- 6 03/27 (S) Title Suff Do Pass
- 7 04/04 (S) Passed *(Vote)*
- 8 04/05 (S) Transmitted To House
- 9 04/10 (S) Enrolled Bill Signed
- 10 04/10 (H) Enrolled Bill Signed
- 11 04/16 Approved by Governor

Code Section: RP 091-0017-0001, RP 091-0017-0003, RP 091-0017-0005, RP 091-0017-0007,
RP 091-0017-0009, RP 091-0017-0011, RP 091-0017-0013, RP 091-0017-0015, RP 091-0017-0017,
RP 091-0017-0019, RP 091-0017-0021, RP 091-0017-0023, RP 091-0017-0025, RP 091-0017-0027,
RP 091-0017-0029, RP 091-0017-0031

----- Additional Information -----

House Committee: Judiciary A

Senate Committee: Judiciary, Division A

Principal Author: Cockerham

2012 GENERAL LAWS OF MISSISSIPPI, HB 732

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Cockerham

To: Judiciary A

HOUSE BILL NO. 732

AN ACT TO ENACT THE MISSISSIPPI PRINCIPAL AND INCOME ACT OF 2013 WHICH SHALL BE CODIFIED IN TITLE 91, CHAPTER 17, MISSISSIPPI CODE OF 1972; TO PROVIDE FOR THE DUTIES OF FIDUCIARIES OF ESTATES AND TRUSTS IN ALLOCATING RECEIPTS AND DISBURSEMENTS TO OR BETWEEN PRINCIPAL AND INCOME; TO PROVIDE THE MANNER IN WHICH A FIDUCIARY SHALL EXERCISE THE POWER TO ADJUST AUTHORIZED BY THIS ACT; TO AUTHORIZE A TRUSTEE TO ADJUST BETWEEN PRINCIPAL AND INCOME TO THE EXTENT THE TRUSTEE CONSIDERS NECESSARY UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE THE CIRCUMSTANCES UNDER WHICH A TRUSTEE MAY NOT MAKE AN ADJUSTMENT; TO PROVIDE THAT A COURT MAY NOT ORDER A FIDUCIARY TO CHANGE CERTAIN DECISIONS MADE BY THE FIDUCIARY PURSUANT TO THIS ACT UNLESS IT DETERMINES THAT THE DECISION WAS AN ABUSE OF THE FIDUCIARY'S DISCRETION; TO PROVIDE THAT IF A COURT DETERMINES THAT A FIDUCIARY HAS ABUSED ITS DISCRETION, THE COURT MAY PLACE THE INCOME AND REMAINDER BENEFICIARIES IN THE POSITIONS THEY WOULD HAVE OCCUPIED IF THE DISCRETION HAD NOT BEEN ABUSED AND TO PROVIDE RULES THAT A COURT FOLLOWS IN SUCH CASES; TO PROVIDE THE RULES THAT APPLY TO DISTRIBUTION OF THE ASSETS OF AN ESTATE OR TRUST AFTER A DECEDENT DIES, IN THE CASE OF AN ESTATE, OR AFTER AN INCOME INTEREST IN A TRUST ENDS; TO PROVIDE WHEN AN INCOME INTEREST IN AN ESTATE OR TRUST BEGINS AND ENDS; TO PROVIDE FOR THE ALLOCATION OF RECEIPTS AND DISBURSEMENTS WHEN A DECEDENT DIES, IN THE CASE OF AN ESTATE, OR AN INCOME INTEREST BEGINS, IN THE CASE OF A TRUST; TO PROVIDE FOR THE ALLOCATION OF UNDISTRIBUTED INCOME WHEN AN INCOME INTEREST ENDS; TO PROVIDE FOR THE ALLOCATION OF RECEIPTS BETWEEN PRINCIPAL AND INCOME DURING THE ADMINISTRATION OF A TRUST; TO PROVIDE FOR THE ALLOCATION OF DISBURSEMENTS FROM INCOME AND PRINCIPAL DURING THE ADMINISTRATION OF A TRUST; TO AUTHORIZE THE TRANSFERS FROM INCOME TO PRINCIPAL UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE FOR THE ALLOCATION OF THE PAYMENT OF INCOME TAXES BETWEEN THE PRINCIPAL AND INCOME OF A TRUST; TO AUTHORIZE FIDUCIARIES TO MAKE ADJUSTMENTS BETWEEN PRINCIPAL AND INCOME BECAUSE OF TAXES UNDER CERTAIN CIRCUMSTANCES; TO REPEAL SECTIONS 91-17-1 THROUGH 91-17-31, MISSISSIPPI CODE OF 1972, WHICH COMPRISE THE REVISED UNIFORM PRINCIPAL AND INCOME LAW; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following shall be codified as Chapter 17, Title 91, Mississippi Code of 1972, to replace the Revised Uniform Principal and Income Law repealed in Section 2 of this act.

ARTICLE 1

2012 GENERAL LAWS OF MISSISSIPPI, HB 732

DEFINITIONS AND FIDUCIARY DUTIES

91-17-101. **Short title.** This chapter may be cited as the Mississippi Principal and Income Act of 2013.

91-17-102. **Definitions.** In this chapter:

(1) "Accounting period" means a calendar year unless another twelve-month period is selected by a fiduciary. The term includes a portion of a calendar year or other twelve-month period that begins when an income interest begins or ends when an income interest ends.

(2) "Beneficiary" includes, in the case of a decedent's estate, an heir, legatee, and devisee and, in the case of a trust, an income beneficiary and a remainder beneficiary.

(3) "Fiduciary" means a personal representative or a trustee. The term includes an executor, administrator, successor personal representative, special administrator, and a person performing substantially the same function.

(4) "Income" means money or property that a fiduciary receives as current return from a principal asset. The term includes a portion of receipts from a sale, exchange, or liquidation of a principal asset, to the extent provided in Article 4.

(5) "Income beneficiary" means a person to whom net income of a trust is or may be payable.

(6) "Income interest" means the right of an income beneficiary to receive all or part of net income, whether the terms of the trust require it to be distributed or authorize it to be distributed in the trustee's discretion.

(7) "Mandatory income interest" means the right of an income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute.

(8) "Net income" means the total receipts allocated to income during an accounting period minus the disbursements made

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from income during the period, plus or minus transfers under this chapter to or from income during the period.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

(10) "Principal" means property held in trust for distribution to a remainder beneficiary when the trust terminates.

(11) "Remainder beneficiary" means a person entitled to receive principal when an income interest ends.

(12) "Terms of a trust" means the manifestation of the intent of a settlor or decedent with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding, whether by written or spoken words or by conduct.

(13) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court.

91-17-103. **Fiduciary duties; general principles.** (a) In allocating receipts and disbursements to or between principal and income, and with respect to any matter within the scope of Articles 2 and 3, a fiduciary:

(1) Shall administer a trust or estate in accordance with the terms of the trust or the will, even if there is a different provision in this chapter;

(2) May administer a trust or estate by the exercise of a discretionary power of administration given to the fiduciary by the terms of the trust or the will, even if the exercise of the power produces a result different from a result required or permitted by this chapter;

(3) Shall administer a trust or estate in accordance with this chapter if the terms of the trust or the will do not

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contain a different provision or do not give the fiduciary a discretionary power of administration; and

(4) Shall add a receipt or charge a disbursement to principal to the extent that the terms of the trust and this chapter do not provide a rule for allocating the receipt or disbursement to or between principal and income.

(b) In exercising the power to adjust under Section 91-17-104(a) or a discretionary power of administration regarding a matter within the scope of this chapter, whether granted by the terms of a trust, a will, or this chapter, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an intention that the fiduciary shall or may favor one or more of the beneficiaries. A determination in accordance with this chapter is presumed to be fair and reasonable to all of the beneficiaries.

91-17-104. **Trustee's power to adjust.** (a) A trustee may adjust between principal and income to the extent the trustee considers necessary if the trustee invests and manages trust assets as a prudent investor, the terms of the trust describe the amount that may or must be distributed to a beneficiary by referring to the trust's income, and the trustee determines, after applying the rules in Section 91-17-103(a), that the trustee is unable to comply with Section 91-17-103(b).

(b) In deciding whether and to what extent to exercise the power conferred by subsection (a), a trustee shall consider all factors relevant to the trust and its beneficiaries, including the following factors to the extent they are relevant:

- (1) The nature, purpose, and expected duration of the trust;
- (2) The intent of the settlor;
- (3) The identity and circumstances of the beneficiaries;

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(4) The needs for liquidity, regularity of income, and preservation and appreciation of capital;

(5) The assets held in the trust; the extent to which they consist of financial assets, interests in closely held enterprises, tangible and intangible personal property, or real property; the extent to which an asset is used by a beneficiary; and whether an asset was purchased by the trustee or received from the settlor;

(6) The net amount allocated to income under the other sections of this chapter and the increase or decrease in the value of the principal assets, which the trustee may estimate as to assets for which market values are not readily available;

(7) Whether and to what extent the terms of the trust give the trustee the power to invade principal or accumulate income or prohibit the trustee from invading principal or accumulating income, and the extent to which the trustee has exercised a power from time to time to invade principal or accumulate income;

(8) The actual and anticipated effect of economic conditions on principal and income and effects of inflation and deflation; and

(9) The anticipated tax consequences of an adjustment.

(c) A trustee may not make an adjustment:

(1) That diminishes the income interest in a trust that requires all of the income to be paid at least annually to a spouse and for which an estate tax or gift tax marital deduction would be allowed, in whole or in part, if the trustee did not have the power to make the adjustment;

(2) That reduces the actuarial value of the income interest in a trust to which a person transfers property with the intent to qualify for a gift tax exclusion;

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(3) That changes the amount payable to a beneficiary as a fixed annuity or a fixed fraction of the value of the trust assets;

(4) From any amount that is permanently set aside for charitable purposes under a will or the terms of a trust unless both income and principal are so set aside;

(5) If possessing or exercising the power to make an adjustment causes an individual to be treated as the owner of all or part of the trust for income tax purposes, and the individual would not be treated as the owner if the trustee did not possess the power to make an adjustment;

(6) If possessing or exercising the power to make an adjustment causes all or part of the trust assets to be included for estate tax purposes in the estate of an individual who has the power to remove a trustee or appoint a trustee, or both, and the assets would not be included in the estate of the individual if the trustee did not possess the power to make an adjustment;

(7) If the trustee is a beneficiary of the trust; or

(8) If the trustee is not a beneficiary, but the adjustment would benefit the trustee directly or indirectly.

(d) If subsection (c) (5), (6), (7), or (8) applies to a trustee and there is more than one (1) trustee, a cotrustee to whom the provision does not apply may make the adjustment unless the exercise of the power by the remaining trustee or trustees is not permitted by the terms of the trust.

(e) A trustee may release the entire power conferred by subsection (a) or may release only the power to adjust from income to principal or the power to adjust from principal to income if the trustee is uncertain about whether possessing or exercising the power will cause a result described in subsection (c) (1) through (6) or (c) (8) or if the trustee determines that possessing or exercising the power will or may deprive the trust of a tax benefit or impose a tax burden not described in subsection (c).

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The release may be permanent or for a specified period, including a period measured by the life of an individual.

(f) Terms of a trust that limit the power of a trustee to make an adjustment between principal and income do not affect the application of this section unless it is clear from the terms of the trust that the terms are intended to deny the trustee the power of adjustment conferred by subsection (a).

(g) (1) For purposes of this section, and subject to subsection (c) of this section, from time to time a trustee may make a safe-harbor adjustment to increase net trust accounting income up to and including an amount equal to six percent (6%) of the trust's value as defined in subsection (g)(2). If a trustee determines to make this safe-harbor adjustment, the propriety of this adjustment shall be conclusively presumed. Nothing in this subsection (g) prohibits any other type of adjustment authorized under any provision of this section.

(2) A trust's value under subsection (g)(1) shall be calculated as follows:

(i) For trusts in existence for three (3) years or more, the value shall be the average fair market value of the trust assets over the past three (3) years;

(ii) For trusts in existence for at least two (2) years but less than three (3) years, the value shall be the average fair market value of the trust assets over the past two (2) years; and

(iii) For trusts in existence less than two (2) years, the value shall be the fair market value of the trust assets on December 31 of the preceding year.

91-17-105. **Judicial control of discretionary power.** (a) The court may not order a fiduciary to change a decision to exercise or not to exercise a discretionary power conferred by this chapter unless it determines that the decision was an abuse of the fiduciary's discretion. A fiduciary's decision is not an

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abuse of discretion merely because the court would have exercised the power in a different manner or would not have exercised the power.

(b) The decisions to which subsection (a) applies include:

(1) A decision under Section 91-17-104(a) as to whether and to what extent an amount should be transferred from principal to income or from income to principal.

(2) A decision regarding the factors that are relevant to the trust and its beneficiaries, the extent to which the factors are relevant, and the weight, if any, to be given to those factors, in deciding whether and to what extent to exercise the discretionary power conferred by Section 91-17-104(a).

(c) If the court determines that a fiduciary has abused the fiduciary's discretion, the court may place the income and remainder beneficiaries in the positions they would have occupied if the discretion had not been abused, according to the following rules:

(1) To the extent that the abuse of discretion has resulted in no distribution to a beneficiary or in a distribution that is too small, the court shall order the fiduciary to distribute from the trust to the beneficiary an amount that the court determines will restore the beneficiary, in whole or in part, to the beneficiary's appropriate position.

(2) To the extent that the abuse of discretion has resulted in a distribution to a beneficiary which is too large, the court shall place the beneficiaries, the trust, or both, in whole or in part, in their appropriate positions by ordering the fiduciary to withhold an amount from one or more future distributions to the beneficiary who received the distribution that was too large or ordering that beneficiary to return some or all of the distribution to the trust.

(3) To the extent that the court is unable, after applying paragraphs (1) and (2), to place the beneficiaries, the

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trust, or both, in the positions they would have occupied if the discretion had not been abused, the court may order the fiduciary to pay an appropriate amount from its own funds to one or more of the beneficiaries or the trust or both. .

(d) Upon petition by the fiduciary, the court having jurisdiction over a trust or estate shall determine whether a proposed exercise or nonexercise by the fiduciary of a discretionary power conferred by this chapter will result in an abuse of the fiduciary's discretion. If the petition describes the proposed exercise or nonexercise of the power and contains sufficient information to inform the beneficiaries of the reasons for the proposal, the facts upon which the fiduciary relies, and an explanation of how the income and remainder beneficiaries will be affected by the proposed exercise or nonexercise of the power, a beneficiary who challenges the proposed exercise or nonexercise has the burden of establishing that it will result in an abuse of discretion.

ARTICLE 2

DECEDENT'S ESTATE OR TERMINATING INCOME INTEREST

91-17-201. Determination and distribution of net income.

After a decedent dies, in the case of an estate, or after an income interest in a trust ends, the following rules apply:

(1) A fiduciary of an estate or of a terminating income interest shall determine the amount of net income and net principal receipts received from property specifically given to a beneficiary under the rules in Articles 3 through 5 which apply to trustees and the rules in paragraph (5). The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property.

(2) A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the rules in Articles 3 through 5 which apply to trustees and by:

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(A) Including in net income all income from property used to discharge liabilities;

(B) Paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants, and fiduciaries; court costs and other expenses of administration; and interest on death taxes, but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent that the payment of those expenses from income will not cause the reduction or loss of the deduction; and

(C) Paying from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding-up of a terminating income interest, including debts, funeral expenses, disposition of remains, family allowances, and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust, or applicable law.

(3) A fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright the interest or any other amount provided by the will, the terms of the trust, or applicable law from net income determined under paragraph (2) or from principal to the extent that net income is insufficient. If a beneficiary is to receive a pecuniary amount outright and no interest or other amount is provided for by the will or by the terms of the trust, and if the pecuniary amount is not distributed to the beneficiary within one (1) year of the date of death of the testator or the date the income interest ends, then the fiduciary shall distribute to the beneficiary interest on any amount that remains undistributed after the one-year anniversary until the pecuniary amount is distributed in full. The interest rate shall be the IRS midterm applicable federal rate in effect on the date the interest begins to accrue.

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(4) A fiduciary shall distribute the net income remaining after distributions required by paragraph (3) in the manner described in Section 91-17-202 to all other beneficiaries, including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust.

(5) A fiduciary may not reduce principal or income receipts from property described in paragraph (1) because of a payment described in Section 91-17-501 or 91-17-502 to the extent that the will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent that the fiduciary recovers or expects to recover the payment from a third party. The net income and principal receipts from the property are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due before, on, or after the date of a decedent's death or an income interest's terminating event, and by making a reasonable provision for amounts that the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.

91-17-202. **Distribution to residuary and remainder beneficiaries.** (a) Each beneficiary described in Section 91-17-201(4) is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date. If a fiduciary makes more than one (1) distribution of assets to beneficiaries to whom this section applies, each beneficiary, including one who does not receive part of the distribution, is entitled, as of each distribution date, to the net income the fiduciary has received after the date of death or terminating

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event or earlier distribution date but has not distributed as of the current distribution date.

(b) In determining a beneficiary's share of net income, the following rules apply:

(1) The beneficiary is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date, including assets that later may be sold to meet principal obligations.

(2) The beneficiary's fractional interest in the undistributed principal assets must be calculated without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in trust.

(3) The beneficiary's fractional interest in the undistributed principal assets must be calculated on the basis of the aggregate value of those assets as of the distribution date without reducing the value by any unpaid principal obligation.

(4) The distribution date for purposes of this section may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which assets are actually distributed.

(c) If a fiduciary does not distribute all of the collected but undistributed net income to each person as of a distribution date, the fiduciary shall maintain appropriate records showing the interest of each beneficiary in that net income.

(d) A fiduciary may apply the rules in this section, to the extent that the fiduciary considers it appropriate, to net gain or loss realized after the date of death or terminating event or earlier distribution date from the disposition of a principal asset if this section applies to the income from the asset.

ARTICLE 3

APPORTIONMENT AT BEGINNING AND END OF INCOME INTEREST

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91-17-301. **When right to income begins and ends.** (a) An income beneficiary is entitled to net income from the date on which the income interest begins. An income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to a trust or successive income interest.

(b) An asset becomes subject to a trust:

(1) On the date it is transferred to the trust in the case of an asset that is transferred to a trust during the transferor's life;

(2) On the date of a testator's death in the case of an asset that becomes subject to a trust by reason of a will, even if there is an intervening period of administration of the testator's estate; or

(3) On the date of an individual's death in the case of an asset that is transferred to a fiduciary by a third party because of the individual's death.

(c) An asset becomes subject to a successive income interest on the day after the preceding income interest ends, as determined under subsection (d), even if there is an intervening period of administration to wind up the preceding income interest.

(d) An income interest ends on the day before an income beneficiary dies or another terminating event occurs, or on the last day of a period during which there is no beneficiary to whom a trustee may distribute income.

91-17-302. **Apportionment of receipts and disbursements when decedent dies or income interest begins.** (a) A trustee shall allocate an income receipt or disbursement other than one to which Section 91-17-201(1) applies to principal if its due date occurs before a decedent dies in the case of an estate or before an income interest begins in the case of a trust or successive income interest.

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(b) A trustee shall allocate an income receipt or disbursement to income if its due date occurs on or after the date on which a decedent dies or an income interest begins and it is a periodic due date. An income receipt or disbursement must be treated as accruing from day to day if its due date is not periodic or it has no due date. The portion of the receipt or disbursement accruing before the date on which a decedent dies or an income interest begins must be allocated to principal and the balance must be allocated to income.

(c) An item of income or an obligation is due on the date the payer is required to make a payment. If a payment date is not stated, there is no due date for the purposes of this chapter. Distributions to shareholders or other owners from an entity to which Section 91-17-401 applies are deemed to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution. A due date is periodic for receipts or disbursements that must be paid at regular intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.

91-17-303. **Apportionment when income interest ends.** (a) In this section, "undistributed income" means net income received before the date on which an income interest ends. The term does not include an item of income or expense that is due or accrued or net income that has been added or is required to be added to principal under the terms of the trust.

(b) When a mandatory income interest ends, the trustee shall pay to a mandatory income beneficiary who survives that date, or the estate of a deceased mandatory income beneficiary whose death causes the interest to end, the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust unless the beneficiary has an unqualified power to revoke more than five percent (5%) of the trust immediately before

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the income interest ends. In the latter case, the undistributed income from the portion of the trust that may be revoked must be added to principal.

(c) When a trustee's obligation to pay a fixed annuity or a fixed fraction of the value of the trust's assets ends, the trustee shall prorate the final payment if and to the extent required by applicable law to accomplish a purpose of the trust or its settlor relating to income, gift, estate, or other tax requirements.

ARTICLE 4

ALLOCATION OF RECEIPTS DURING ADMINISTRATION OF TRUST

PART 1

RECEIPTS FROM ENTITIES

91-17-401. **Character of receipts.** (a) In this section, "entity" means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization in which a trustee has an interest other than a trust or estate to which Section 91-17-402 applies, a business or activity to which Section 91-17-403 applies, or an asset-backed security to which Section 91-17-415 applies.

(b) Except as otherwise provided in this section, a trustee shall allocate to income money received from an entity.

(c) A trustee shall allocate the following receipts from an entity to principal:

(1) Property other than money;

(2) Money received in one (1) distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity;

(3) Money received in total or partial liquidation of the entity; and

(4) Money received from an entity that is a regulated investment company or a real estate investment trust if the money

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distributed is a capital gain dividend for federal income tax purposes.

(d) Money is received in partial liquidation:

(1) To the extent that the entity, at or near the time of a distribution, indicates that it is a distribution in partial liquidation; or

(2) If the total amount of money and property received in a distribution or series of related distributions is greater than twenty percent (20%) of the entity's gross assets, as shown by the entity's year-end financial statements immediately preceding the initial receipt.

(e) Money is not received in partial liquidation, nor may it be taken into account under subsection (d)(2), to the extent that it does not exceed the amount of income tax that a trustee or beneficiary must pay on taxable income of the entity that distributes the money.

(f) A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors.

91-17-402. **Distribution from trust or estate.** A trustee shall allocate to income an amount received as a distribution of income from a trust or an estate in which the trust has an interest other than a purchased interest, and shall allocate to principal an amount received as a distribution of principal from such a trust or estate. If a trustee purchases an interest in a trust that is an investment entity, or a decedent or donor transfers an interest in such a trust to a trustee, Section 91-17-401 or 91-17-415 applies to a receipt from the trust.

91-17-403. **Business and other activities conducted by trustee.** (a) If a trustee who conducts a business or other

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activity determines that it is in the best interest of all the beneficiaries to account separately for the business or activity instead of accounting for it as part of the trust's general accounting records, the trustee may maintain separate accounting records for its transactions, whether or not its assets are segregated from other trust assets.

(b) A trustee who accounts separately for a business or other activity may determine the extent to which its net cash receipts must be retained for working capital, the acquisition or replacement of fixed assets, and other reasonably foreseeable needs of the business or activity, and the extent to which the remaining net cash receipts are accounted for as principal or income in the trust's general accounting records. If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee shall account for the net amount received as principal in the trust's general accounting records to the extent the trustee determines that the amount received is no longer required in the conduct of the business.

(c) Activities for which a trustee may maintain separate accounting records include:

- (1) Retail, manufacturing, service, and other traditional business activities;
- (2) Farming;
- (3) Raising and selling livestock and other animals;
- (4) Management of rental properties;
- (5) Extraction of minerals and other natural resources;
- (6) Timber operations; and
- (7) Activities to which Section 91-17-414 applies.

PART 2

RECEIPTS NOT NORMALLY APPORTIONED

91-17-404. **Principal receipts.** A trustee shall allocate to principal:

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(1) To the extent not allocated to income under this chapter, assets received from a transferor during the transferor's lifetime, a decedent's estate, a trust with a terminating income interest, or a payer under a contract naming the trust or its trustee as beneficiary;

(2) Money or other property received from the sale, exchange, liquidation, or change in form of a principal asset, including realized profit, subject to this article;

(3) Amounts recovered from third parties to reimburse the trust because of disbursements described in Section 91-17-502(a)(7) or for other reasons to the extent not based on the loss of income;

(4) Proceeds of property taken by eminent domain, but a separate award made for the loss of income with respect to an accounting period during which a current income beneficiary had a mandatory income interest is income;

(5) Net income received in an accounting period during which there is no beneficiary to whom a trustee may or must distribute income; and

(6) Other receipts as provided in Part 3 of this article.

91-17-405. **Rental property.** To the extent that a trustee accounts for receipts from rental property pursuant to this section, the trustee shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease. An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods, must be added to principal and held subject to the terms of the lease and is not available for distribution to a beneficiary until the trustee's contractual obligations have been satisfied with respect to that amount.

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91-17-406. **Obligation to pay money.** (a) An amount received as interest, whether determined at a fixed, variable, or floating rate, on an obligation to pay money to the trustee, including an amount received as consideration for prepaying principal, must be allocated to income without any provision for amortization of premium.

(b) A trustee shall allocate to principal an amount received from the sale, redemption, or other disposition of an obligation to pay money to the trustee more than one (1) year after it is purchased or acquired by the trustee, including an obligation whose purchase price or value when it is acquired is less than its value at maturity. If the obligation matures within one (1) year after it is purchased or acquired by the trustee, an amount received in excess of its purchase price or its value when acquired by the trust must be allocated to income.

(c) This section does not apply to an obligation to which Section 91-17-409, 91-17-410, 91-17-411, 91-17-412, 91-17-414, or 91-17-415 applies.

91-17-407. **Insurance policies and similar contracts.** (a) Except as otherwise provided in subsection (b), a trustee shall allocate to principal the proceeds of a life insurance policy or other contract in which the trust or its trustee is named as beneficiary, including a contract that insures the trust or its trustee against loss for damage to, destruction of, or loss of title to a trust asset. The trustee shall allocate dividends on an insurance policy to income if the premiums on the policy are paid from income, and to principal if the premiums are paid from principal.

(b) A trustee shall allocate to income proceeds of a contract that insures the trustee against loss of occupancy or other use by an income beneficiary, loss of income, or, subject to Section 91-17-403, loss of profits from a business.

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(c) This section does not apply to a contract to which Section 91-17-409 applies.

PART 3

RECEIPTS NORMALLY APPORTIONED

91-17-408. **Insubstantial allocations not required.** If a trustee determines that an allocation between principal and income required by Section 91-17-409, 91-17-410, 91-17-411, 91-17-412, or 91-17-415 is insubstantial, the trustee may allocate the entire amount to principal unless one (1) of the circumstances described in Section 91-17-104(c) applies to the allocation. This power may be exercised by a cotrustee in the circumstances described in Section 91-17-104(d) and may be released for the reasons and in the manner described in Section 91-17-104(e). An allocation is presumed to be insubstantial if:

(1) The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than ten percent (10%); or

(2) The value of the asset producing the receipt for which the allocation would be made is less than ten percent (10%) of the total value of the trust's assets at the beginning of the accounting period.

91-17-409. **Deferred compensation, annuities, and similar payments.** (a) In this section:

(1) "Payment" means a payment that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payer in exchange for future payments. The term includes a payment made in money or property from the payer's general assets or from a separate fund created by the payer. For purposes of subsections (d), (e), (f), and (g), the term also includes any payment from any separate fund, regardless of the reason for the payment.

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(2) "Separate fund" includes a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.

(b) To the extent that a payment is characterized as interest, or a dividend, or a payment made in lieu of interest or a dividend, a trustee shall allocate the payment to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

(c) If no part of a payment is characterized as interest, a dividend, or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income ten percent (10%) of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not "required to be made" to the extent that it is made because the trustee exercises a right of withdrawal.

(d) Except as otherwise provided in subsection (e), subsections (f) and (g) apply, and subsections (b) and (c) do not apply, in determining the allocation of a payment made from a separate fund to:

(1) A trust to which an election to qualify for a marital deduction under Section 2056(b)(7) of the Internal Revenue Code of 1986, as amended, has been made; or

(2) A trust that qualifies for the marital deduction under Section 2056(b)(5) of the Internal Revenue Code of 1986, as amended.

(e) Subsections (d), (f), and (g) do not apply if and to the extent that the series of payments would, without the application

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of subsection (d), qualify for the marital deduction under Section 2056(b)(7)(C) of the Internal Revenue Code of 1986, as amended.

(f) A trustee shall determine the internal income of each separate fund for the accounting period as if the separate fund were a trust subject to this chapter. Upon request of the surviving spouse, the trustee shall demand that the person administering the separate fund distribute the internal income to the trust. The trustee shall allocate a payment from the separate fund to income to the extent of the internal income of the separate fund and distribute that amount to the surviving spouse. The trustee shall allocate the balance of the payment to principal. Upon request of the surviving spouse, the trustee shall allocate principal to income to the extent the internal income of the separate fund exceeds payments made from the separate fund to the trust during the accounting period.

(g) If a trustee cannot determine the internal income of a separate fund but can determine the value of the separate fund, the internal income of the separate fund is deemed to equal four percent (4%) of the fund's value, according to the most recent statement of value preceding the beginning of the accounting period. If the trustee can determine neither the internal income of the separate fund nor the fund's value, the internal income of the fund is deemed to equal the product of the interest rate and the present value of the expected future payments, as determined under Section 7520 of the Internal Revenue Code of 1986, as amended, for the month preceding the accounting period for which the computation is made.

(h) This section does not apply to a payment to which Section 91-17-410 applies.

91-17-410. **Liquidating asset.** (a) In this section, "liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a period of limited duration. The term includes a leasehold,

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patent, copyright, royalty right, and right to receive payments during a period of more than one (1) year under an arrangement that does not provide for the payment of interest on the unpaid balance. The term does not include a payment subject to Section 91-17-409, resources subject to Section 91-17-411, timber subject to Section 91-17-412, an activity subject to Section 91-17-414, an asset subject to Section 91-17-415, or any asset for which the trustee establishes a reserve for depreciation under Section 91-17-503.

(b) A trustee shall allocate to income ten percent (10%) of the receipts from a liquidating asset and the balance to principal.

91-17-411. **Minerals, water, and other natural resources.**

(a) To the extent that a trustee accounts for receipts from an interest in minerals or other natural resources pursuant to this section, the trustee shall allocate them as follows:

(1) If received as nominal delay rental or nominal annual rent on a lease, a receipt must be allocated to income.

(2) If received from a production payment, a receipt must be allocated to income if and to the extent that the agreement creating the production payment provides a factor for interest or its equivalent. The balance must be allocated to principal.

(3) If an amount received as a royalty, shut-in-well payment, take-or-pay payment, bonus, or delay rental is more than nominal, ninety percent (90%) must be allocated to principal and the balance to income.

(4) If an amount is received from a working interest or any other interest not provided for in paragraph (1), (2), or (3), ninety percent (90%) of the net amount received must be allocated to principal and the balance to income.

(b) An amount received on account of an interest in water that is renewable must be allocated to income. If the water is

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not renewable, ninety percent (90%) of the amount must be allocated to principal and the balance to income.

(c) This chapter applies whether or not a decedent or donor was extracting minerals, water, or other natural resources before the interest became subject to the trust.

(d) If a trust owns an interest in minerals, water, or other natural resources on January 1, 2013, the trustee may allocate receipts from the interest as provided in this chapter or in the manner used by the trustee before January 1, 2013. If the trust acquires an interest in minerals, water, or other natural resources after January 1, 2013, the trustee shall allocate receipts from the interest as provided in this chapter.

91-17-412. **Timber.** (a) To the extent that a trustee accounts for receipts from the sale of timber and related products pursuant to this section, the trustee shall allocate the net receipts:

(1) To income to the extent that the amount of timber removed from the land does not exceed the rate of growth of the timber during the accounting periods in which a beneficiary has a mandatory income interest;

(2) To principal to the extent that the amount of timber removed from the land exceeds the rate of growth of the timber or the net receipts are from the sale of standing timber;

(3) To or between income and principal if the net receipts are from the lease of timberland or from a contract to cut timber from land owned by a trust, by determining the amount of timber removed from the land under the lease or contract and applying the rules in paragraphs (1) and (2); or

(4) To principal to the extent that advance payments, bonuses, and other payments are not allocated pursuant to paragraph (1), (2), or (3).

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(b) In determining net receipts to be allocated pursuant to subsection (a), a trustee shall deduct and transfer to principal a reasonable amount for depletion.

(c) This chapter applies whether or not a decedent or transferor was harvesting timber from the property before it became subject to the trust.

(d) If a trust owns an interest in timberland on January 1, 2013, the trustee may allocate net receipts from the sale of timber and related products as provided in this chapter or in the manner used by the trustee before January 1, 2013. If the trust acquires an interest in timberland after January 1, 2013, the trustee shall allocate net receipts from the sale of timber and related products as provided in this chapter.

91-17-413. **Property not productive of income.** (a) If a marital deduction is allowed for all or part of a trust whose assets consist substantially of property that does not provide the spouse with sufficient income from or use of the trust assets, and if the amounts that the trustee transfers from principal to income under Section 91-17-104 and distributes to the spouse from principal pursuant to the terms of the trust are insufficient to provide the spouse with the beneficial enjoyment required to obtain the marital deduction, the spouse may require the trustee to make property productive of income, convert property within a reasonable time, or exercise the power conferred by Section 91-17-104(a). The trustee may decide which action or combination of actions to take.

(b) In cases not governed by subsection (a), proceeds from the sale or other disposition of an asset are principal without regard to the amount of income the asset produces during any accounting period.

91-17-414. **Derivatives and options.** (a) In this section, "derivative" means a contract or financial instrument or a combination of contracts and financial instruments which gives a

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trust the right or obligation to participate in some or all changes in the price of a tangible or intangible asset or group of assets, or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.

(b) To the extent that a trustee does not account under Section 91-17-403 for transactions in derivatives, the trustee shall allocate to principal receipts from and disbursements made in connection with those transactions.

(c) If a trustee grants an option to buy property from the trust, whether or not the trust owns the property when the option is granted, grants an option that permits another person to sell property to the trust, or acquires an option to buy property for the trust or an option to sell an asset owned by the trust, and the trustee or other owner of the asset is required to deliver the asset if the option is exercised, an amount received for granting the option must be allocated to principal. An amount paid to acquire the option must be paid from principal. A gain or loss realized upon the exercise of an option, including an option granted to a settlor of the trust for services rendered, must be allocated to principal.

91-17-415. **Asset-backed securities.** (a) In this section, "asset-backed security" means an asset whose value is based upon the right it gives the owner to receive distributions from the proceeds of financial assets that provide collateral for the security. The term includes an asset that gives the owner the right to receive from the collateral financial assets only the interest or other current return or only the proceeds other than interest or current return. The term does not include an asset to which Section 91-17-401 or 91-17-409 applies.

(b) If a trust receives a payment from interest or other current return and from other proceeds of the collateral financial assets, the trustee shall allocate to income the portion of the payment which the payer identifies as being from interest or other

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current return and shall allocate the balance of the payment to principal.

(c) If a trust receives one or more payments in exchange for the trust's entire interest in an asset-backed security in one (1) accounting period, the trustee shall allocate the payments to principal. If a payment is one of a series of payments that will result in the liquidation of the trust's interest in the security over more than one (1) accounting period, the trustee shall allocate ten percent (10%) of the payment to income and the balance to principal.

ARTICLE 5

ALLOCATION OF DISBURSEMENTS DURING ADMINISTRATION OF TRUST

91-17-501. **Disbursements from income.** A trustee shall make the following disbursements from income to the extent that they are not disbursements to which Section 91-17-201(2)(B) or (C) applies:

(1) One-half (1/2) of the regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee;

(2) One-half (1/2) of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

(3) All of the other ordinary expenses incurred in connection with the administration, management, or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest; and

(4) Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

91-17-502. **Disbursements from principal.** (a) A trustee shall make the following disbursements from principal:

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- (1) The remaining one-half (1/2) of the disbursements described in Section 91-17-501(1) and (2);
- (2) All of the trustee's compensation calculated on principal as a fee for acceptance, distribution, or termination, and disbursements made to prepare property for sale;
- (3) Payments on the principal of a trust debt;
- (4) Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;
- (5) Premiums paid on a policy of insurance not described in Section 91-17-501(4) of which the trust is the owner and beneficiary;
- (6) Estate, inheritance, and other transfer taxes, including penalties, apportioned to the trust; and
- (7) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common-law claims by third parties, and defending claims based on environmental matters.

(b) If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

91-17-503. **Transfers from income to principal for depreciation.** (a) In this section, "depreciation" means a reduction in value due to wear, tear, decay, corrosion, or gradual

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obsolescence of a fixed asset having a useful life of more than one (1) year.

(b) A trustee may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but may not transfer any amount for depreciation:

(1) Of that portion of real property used or available for use by a beneficiary as a residence or of tangible personal property held or made available for the personal use or enjoyment of a beneficiary;

(2) During the administration of a decedent's estate;
or

(3) Under this section if the trustee is accounting under Section 91-17-403 for the business or activity in which the asset is used.

(c) An amount transferred to principal need not be held as a separate fund.

91-17-504. **Transfers from income to reimburse principal.**

(a) If a trustee makes or expects to make a principal disbursement described in this section, the trustee may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or to provide a reserve for future principal disbursements.

(b) Principal disbursements to which subsection (a) applies include the following, but only to the extent that the trustee has not been and does not expect to be reimbursed by a third party:

(1) An amount chargeable to income but paid from principal because it is unusually large, including extraordinary repairs;

(2) A capital improvement to a principal asset, whether in the form of changes to an existing asset or the construction of a new asset, including special assessments;

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(3) Disbursements made to prepare property for rental, including tenant allowances, leasehold improvements, and broker's commissions;

(4) Periodic payments on an obligation secured by a principal asset to the extent that the amount transferred from income to principal for depreciation is less than the periodic payments; and

(5) Disbursements described in Section 91-17-502(a)(7).

(c) If the asset whose ownership gives rise to the disbursements becomes subject to a successive income interest after an income interest ends, a trustee may continue to transfer amounts from income to principal as provided in subsection (a).

91-17-505. **Income taxes.** (a) A tax required to be paid by a trustee based on receipts allocated to income must be paid from income.

(b) A tax required to be paid by a trustee based on receipts allocated to principal must be paid from principal, even if the tax is called an income tax by the taxing authority.

(c) A tax required to be paid by a trustee on the trust's share of an entity's taxable income must be paid:

(1) From income to the extent that receipts from the entity are allocated only to income;

(2) From principal to the extent that receipts from the entity are allocated only to principal;

(3) Proportionately from principal and income to the extent that receipts from the entity are allocated to both income and principal; and

(4) From principal to the extent that the tax exceeds the total receipts from the entity.

(d) After applying subsections (a) through (c), the trustee shall adjust income or principal receipts to the extent that the trust's taxes are reduced because the trust receives a deduction for payments made to a beneficiary.

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91-17-506. **Adjustments between principal and income because of taxes.** A fiduciary may make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries which arise from:

- (1) Elections and decisions, that the fiduciary makes from time to time regarding tax matters;
- (2) An income tax or any other tax that is imposed upon the fiduciary or a beneficiary as a result of a transaction involving or a distribution from the estate or trust; or
- (3) The ownership by an estate or trust of an interest in an entity whose taxable income, whether or not distributed, is includable in the taxable income of the estate, trust, or a beneficiary.

ARTICLE 6

MISCELLANEOUS PROVISIONS

91-17-601. **Uniformity of application and construction.** In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

91-17-602. **Severability clause.** If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

91-17-603. **Application of chapter to existing trusts and estates.** This chapter applies to every trust or decedent's estate existing on January 1, 2013, except as otherwise expressly provided in the will or terms of the trust or in this chapter.

91-17-604. **Transitional matters.** Section 91-17-409 applies to a trust described in Section 91-17-409(d) on and after the following dates:

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(1) If the trust is not funded as of January 1, 2013, the date of the decedent's death.

(2) If the trust is initially funded in the calendar year beginning January 1, 2013, the date of the decedent's death.

(3) If the trust is not described in paragraph (1) or (2), January 1, 2013.

SECTION 2. Sections 91-17-1, 91-17-3, 91-17-5, 91-17-7, 91-17-9, 91-17-11, 91-17-13, 91-17-15, 91-17-17, 91-17-19, 91-17-21, 91-17-23, 91-17-25, 91-17-27, 91-17-29 and 91-17-31, Mississippi Code of 1972, which comprise the Revised Uniform Principal and Income Law, are repealed.

SECTION 3. This act shall take effect and be in force from and after January 1, 2013.

Mississippi Legislature
2012 Regular Session
House Bill 756

Description: Wildlife enclosures; extend repealer on Wildlife, Fisheries and Parks authority to regulate.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Wildlife, Fisheries and Parks
- 2 02/23 (H) Title Suff Do Pass Comm Sub
- 3 02/23 (H) Committee Substitute Adopted
- 4 02/23 (H) Passed (Vote)
- 5 02/24 (H) Transmitted To Senate
- 6 02/29 (S) Referred To Wildlife, Fisheries and Parks
- 7 03/29 (S) Title Suff Do Pass
- 8 04/04 (S) Passed (Vote)
- 9 04/05 (S) Transmitted To House
- 10 04/10 (S) Enrolled Bill Signed
- 11 04/10 (H) Enrolled Bill Signed
- 12 04/13 Approved by Governor

Code Section: A 049-0007-0058.3, A 049-0007-0058.4, A 049-0011-0003

----- **Additional Information** -----

House Committee: Wildlife, Fisheries and Parks

Senate Committee: Wildlife, Fisheries and Parks

Principal Author: Formby

2012 GENERAL LAWS OF MISSISSIPPI, HB 756

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Formby

To: Wildlife, Fisheries and
Parks

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 756

AN ACT TO AMEND SECTION 49-7-58.3, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER FROM JULY 1, 2012, TO JULY 1, 2014, ON THE AUTHORITY OF THE MISSISSIPPI COMMISSION ON WILDLIFE, FISHERIES AND PARKS TO REGULATE THE HUNTING OF NONNATIVE CERVIDS IN NONCOMMERCIAL WILDLIFE ENCLOSURES; TO AMEND SECTION 49-7-58.4, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER FROM JULY 1, 2012, TO JULY 1, 2014, ON THE AUTHORITY OF THE COMMISSION ON WILDLIFE, FISHERIES AND PARKS AND THE DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS TO REGULATE ALL COMMERCIAL AND NONCOMMERCIAL WILD ANIMAL ENCLOSURES; TO AMEND SECTION 49-11-3, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER FROM JULY 1, 2012, TO JULY 1, 2014, ON THE AUTHORITY OF THE COMMISSION ON WILDLIFE, FISHERIES AND PARKS TO REGULATE HUNTING OF NONNATIVE CERVIDS IN COMMERCIAL WILDLIFE ENCLOSURES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 49-7-58.3, Mississippi Code of 1972, is amended as follows:

49-7-58.3. (1) The Commission on Wildlife, Fisheries and Parks may regulate the hunting of nonnative cervids in noncommercial wildlife enclosures, and the Department of Wildlife, Fisheries and Parks may enforce such regulations and laws in the same manner as commercial wildlife enclosures as provided in Section 49-11-25.

(2) This section shall repeal on July 1, 2014.

SECTION 2. Section 49-7-58.4, Mississippi Code of 1972, is amended as follows:

49-7-58.4. (1) The Commission on Wildlife, Fisheries and Parks and the Department of Wildlife, Fisheries and Parks shall have plenary power to regulate all commercial and noncommercial wild animal enclosures in order to conserve and protect native wildlife for all citizens to enjoy and to protect our recreational economy dependent on native wildlife resources.

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(2) The Commission on Wildlife, Fisheries and Parks shall regulate any facility that prevents the free ingress and egress of native or nonnative cervids as the same are defined by the commission. The commission may promulgate rules and regulations requiring the issuance of permits and the payment of a reasonable fee therefor. Regulations promulgated under this authority must have a majority vote of the commission to be adopted.

(3) This section shall repeal on July 1, 2014.

SECTION 3. Section 49-11-3, Mississippi Code of 1972, is amended as follows:

49-11-3. (1) The department may issue operating licenses to any person, partnership, association or corporation for the operation of shooting preserves or commercial wildlife enclosures that meet the following requirements and any applicable regulations:

(a) Each shooting preserve shall contain a minimum of one hundred (100) acres in one (1) tract of leased or owned land (including water area, if any) and shall be restricted to not more than six hundred forty (640) contiguous acres (including water area, if any), except that preserves confined to the releasing of ducks only may be authorized to operate with a minimum of fifty (50) contiguous acres (including water area).

(b) The boundaries of each shooting preserve shall be clearly defined and posted with signs erected at intervals of three hundred (300) feet or less.

(c) Each commercial wildlife enclosure shall contain a minimum of three hundred (300) acres in one (1) tract of leased or owned land (including water area, if any). No commercial wildlife enclosure shall be constructed in such a manner as to allow ingress of native wild animals without providing means of egress.

(d) The preserve or enclosure must be privately owned and operated.

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(2) The commission may issue any rules or regulations necessary to regulate shooting preserves and commercial wildlife enclosures and to enforce this chapter.

(3) (a) The commission may regulate the hunting of nonnative cervids within a commercial wildlife enclosure, and the department may enter such enclosure as provided under Section 49-11-25 and enforce such regulations.

(b) This subsection (3) shall repeal on July 1, 2014.

SECTION 4. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 768

Description: State Health Insurance Management Board; revise to allow Commissioner of Insurance to be represented by his designee.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Insurance
- 2 02/28 (H) Title Suff Do Pass
- 3 03/08 (H) Passed *(Vote)*
- 4 03/09 (H) Transmitted To Senate
- 5 03/15 (S) Referred To Insurance
- 6 03/21 (S) Title Suff Do Pass
- 7 04/04 (S) Passed *(Vote)*
- 8 04/05 (S) Transmitted To House
- 9 04/10 (S) Enrolled Bill Signed
- 10 04/10 (H) Enrolled Bill Signed
- 11 04/16 Approved by Governor

Code Section: A 025-0015-0303

----- Additional Information -----

House Committee: Insurance

Senate Committee: Insurance

Principal Author: Chism

2012 GENERAL LAWS OF MISSISSIPPI, HB 768

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Chism

To: Insurance

HOUSE BILL NO. 768

AN ACT TO AMEND SECTION 25-15-303, MISSISSIPPI CODE OF 1972, TO ALLOW THE COMMISSIONER OF INSURANCE TO APPOINT A DESIGNEE TO ACT IN HIS PLACE ON THE STATE AND SCHOOL EMPLOYEES HEALTH INSURANCE MANAGEMENT BOARD; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-15-303, Mississippi Code of 1972, is amended as follows:

25-15-303. (1) There is created the State and School Employees Health Insurance Management Board, which shall administer the State and School Employees Life and Health Insurance Plan provided for under Section 25-15-3 et seq. The State and School Employees Health Insurance Management Board, hereafter referred to as the "board," shall also be responsible for administering all procedures for selecting third-party administrators provided for in Section 25-15-301.

(2) The board shall consist of the following:

(a) The Chairman of the Workers' Compensation Commission;

(b) The State Personnel Director;

(c) The Commissioner of Insurance, or his designee;

(d) The Commissioner of Higher Education;

(e) The State Superintendent of Public Education;

(f) The Executive Director of the Department of Finance and Administration;

(g) The Executive Director of the State Board for Community and Junior Colleges;

(h) The Executive Director of the Public Employees' Retirement System;

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(i) Two (2) appointees of the Governor whose terms shall be concurrent with that of the Governor, one (1) of whom shall have experience in providing actuarial advice to companies that provide health insurance to large groups and one (1) of whom shall have experience in the day-to-day management and administration of a large self-funded health insurance group;

(j) The Chairman of the Senate Insurance Committee, or his designee;

(k) The Chairman of the House of Representatives Insurance Committee, or his designee;

(l) The Chairman of the Senate Appropriations Committee, or his designee; and

(m) The Chairman of the House of Representatives Appropriations Committee, or his designee.

The legislators, or their designees, shall serve as ex officio, nonvoting members of the board.

The Executive Director of the Department of Finance and Administration shall be the chairman of the board.

(3) The board shall meet at least monthly and maintain minutes of the meetings. A quorum shall consist of a majority of the authorized voting membership of the board. The board shall have the sole authority to promulgate rules and regulations governing the operations of the insurance plans and shall be vested with all legal authority necessary and proper to perform this function including, but not limited to:

(a) Defining the scope and coverages provided by the insurance plan;

(b) Seeking proposals for services or insurance through competitive processes where required by law and selecting service providers or insurers under procedures provided for by law; and

(c) Developing and adopting strategic plans and budgets for the insurance plan.

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The department shall employ a State Insurance Administrator, who shall be responsible for the day-to-day management and administration of the insurance plan. The board shall employ a Deputy State Insurance Administrator who shall be an actuary and a member of the American Academy of Actuaries. The Deputy State Insurance Administrator shall have experience in providing actuarial services to companies that provide health insurance to large groups. The deputy administrator shall receive a salary set by the board and shall not be subject to the authority of the State Personnel Board for any purpose. The Department of Finance and Administration shall provide to the board on a full-time basis personnel and technical support necessary and sufficient to effectively and efficiently carry out the requirements of this section.

(4) Members of the board shall not receive any compensation or per diem, but may receive travel reimbursement provided for under Section 25-3-41 except that the legislators shall receive per diem and expenses, which shall be paid from the contingent expense funds of their respective houses in the same amounts as provided for committee meetings when the Legislature is not in session; however, no per diem and expenses for attending meetings of the board shall be paid while the Legislature is in session.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 773

Description: National Flood Insurance Program; revise laws regarding eligibility for.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 02/20 (H) Referred To Insurance
- 2 02/21 (H) Title Suff Do Pass
- 3 02/22 (H) Passed *{Vote}*
- 4 02/22 (H) Motion to Reconsider Entered (Baria, Chism, Buck (5th))
- 5 02/27 (H) Motion to Reconsider Tabled
- 6 02/27 (H) Transmitted To Senate
- 7 02/29 (S) Referred To Insurance
- 8 03/21 (S) Title Suff Do Pass
- 9 03/22 (S) Passed *{Vote}*
- 10 03/23 (S) Transmitted To House
- 11 03/26 (H) Enrolled Bill Signed
- 12 03/26 (S) Enrolled Bill Signed
- 13 03/30 Approved by Governor

Code Section: A 017-0002-0007, A 017-0002-0009

----- Additional Information -----

House Committee: Insurance

Senate Committee: Insurance

Principal Author: Chism

Additional Authors: Coleman (29th)

2012 GENERAL LAWS OF MISSISSIPPI, HB 773

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Chism, Coleman (29th)

To: Insurance

HOUSE BILL NO. 773

AN ACT TO AMEND SECTIONS 17-2-7 AND 17-2-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN PROVISIONS OF LAW PROHIBITING THE ENFORCEMENT BY COUNTIES AND MUNICIPALITIES OF CERTAIN PORTIONS OF BUILDING CODES SHALL NOT APPLY TO FLOODPLAIN MANAGEMENT ORDINANCES OR REGULATIONS NECESSARY FOR ELIGIBILITY FOR THE NATIONAL FLOOD INSURANCE PROGRAM; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 17-2-7, Mississippi Code of 1972, is amended as follows:

17-2-7. (1) For purposes of this section, "farm structure" means a structure that is constructed on a farm, other than a residence or a structure attached to it, for use on the farm, including, but not limited to, barns, sheds and poultry houses, but not public livestock areas. For purposes of this section, "farm structure" does not include a structure originally qualifying as a "farm structure" but later converted to another use.

(2) The governing body of a county or municipality shall not enforce that portion of any building code established and/or imposed under Sections 17-2-1 through 17-2-5 that regulates the construction or improvement of a farm structure.

(3) The provisions of this section do not apply unless, before constructing or improving a farm structure, the person owning the property on which the structure is to be constructed files an affidavit with the county or municipal official responsible for enforcing the building code stating that the structure is being constructed as a farm structure. The affidavit

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must include a statement of purpose or intended use of the proposed structure or addition.

(4) This section does not affect the authority of the governing body of a county or municipality to issue building permits before an affidavit for the construction or improvement of a farm structure is filed under subsection (3) of this section.

(5) The provisions of this section shall not apply to any floodplain management ordinances or regulations necessary for eligibility for the National Flood Insurance Program.

SECTION 2. Section 17-2-9, Mississippi Code of 1972, is amended as follows:

17-2-9. (1) The governing authority of any county or municipality shall not enforce any portion of any building codes established and/or imposed under Sections 17-2-1 through 17-2-5 that regulates the construction or improvement of industrial facilities that are engaged in activities designated as manufacturing (sectors 31-33), utilities (sector 22), telecommunications (sector 517), bulk stations and materials (sector 422710), crude oil pipelines (sector 486110), refined petroleum products pipelines (sector 486910), natural gas pipelines (sector 486210), other pipelines (sector 486990) and natural gas processing plants (sector 211112), under the North American Industry Classification System (NAICS).

(2) The governing authority of any county or municipality shall not enforce any portion of any building codes established and/or imposed under Sections 17-2-1 through 17-2-5 which regulates the construction or improvement of buildings located on nonpublic fairgrounds or the construction or improvement of buildings located on the Neshoba County Fairgrounds in Neshoba County, Mississippi.

(3) The governing authority of any county or municipality shall not enforce any portion of any building codes established and/or imposed under Sections 17-2-1 through 17-2-5 which

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regulates the construction or improvement of a private unattached outdoor recreational structure, such as a hunting or fishing camp. In order for a structure to qualify as a "hunting camp" or "fishing camp" under the provisions of this subsection, the owner must file with the board of supervisors of the county in which the structure is located his signed affidavit stating under oath that the structure is a hunting camp or fishing camp, as the case may be, that he is the owner or an owner of the camp and that the camp is located in an unincorporated area of the county within, near or in close proximity to land upon which hunting or fishing activities legally may take place.

(4) The governing authority of any county or municipality shall not enforce any portion of any building codes established and/or imposed under Sections 17-2-1 through 17-2-5 which regulates the construction or improvement of manufactured housing built according to the Federal Manufactured Home Construction and Safety Standards Act.

(5) The governing authority of Pearl River County or any municipality within such county shall not enforce any portion of any building codes established and/or imposed under Sections 17-2-1 through 17-2-5 which prohibits the use of or requires building permit approval for the use of salvage lumber or green cut timber in building construction provided such timber is for personal use and is not for sale.

(6) The provisions of this section shall not apply to any floodplain management ordinances or regulations necessary for eligibility for the National Flood Insurance Program.

SECTION 3. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

House Bill 784

Description: Academic credits; allow school district to award to certain students who complete basic training camp with the National Guard.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Education
- 2 03/02 (H) Title Suff Do Pass Comm Sub
- 3 03/08 (H) Committee Substitute Adopted
- 4 03/08 (H) Passed (Vote)
- 5 03/09 (H) Transmitted To Senate
- 6 03/16 (S) Referred To Education
- 7 04/03 (S) Title Suff Do Pass
- 8 04/04 (S) Passed (Vote)
- 9 04/05 (S) Transmitted To House
- 10 04/10 (S) Enrolled Bill Signed
- 11 04/10 (H) Enrolled Bill Signed
- 12 04/16 Approved by Governor

----- Additional Information -----

House Committee: Education

Senate Committee: Education

Principal Author: Frierson

Additional Authors: Gardner

2012 GENERAL LAWS OF MISSISSIPPI, HB 784

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Frierson, Gardner

To: Education

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 784

AN ACT TO AUTHORIZE SCHOOL BOARDS TO ALLOW COURSE CREDIT TO CERTAIN HIGH SCHOOL STUDENTS, WHO ARE ALSO MEMBERS OF THE NATIONAL GUARD, AND WHO COMPLETE BASIC TRAINING CAMP AT THE END OF THEIR JUNIOR YEAR AND BEFORE THE START OF THEIR SENIOR YEAR; TO AUTHORIZE THE SCHOOL DISTRICT TO AWARD THE STUDENT ONE CARNEGIE UNIT OF ELECTIVE CREDIT UPON RECEIPT OF EVIDENCE OF THE STUDENT'S COMPLETION OF BASIC TRAINING; TO AMEND SECTION 37-3-95, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. In addition to the curriculum otherwise required by law or the State Board of Education to be taught in the public schools of this state, the school board of a local school district may allow course credit to any high school student, who is a member of the National Guard and attends basic training camp during the summer between the end of the student's junior year and the start of the student's senior year of academic instruction. At the conclusion of the student's basic training, the commanding officer of the National Guard unit of which the student is a reserve member shall provide evidence of the student's completion of training to the local school district where the student is in attendance. Upon receipt of the evidence provided by the National Guard, the school district may award one (1) Carnegie unit of elective credit to the student. This elective credit may be applied along with the total number of Carnegie units required for the student to graduate.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 848

Description: State assent; revise to conform to federal aid legislation to ensure conservation of fish and wildlife.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 02/20 (H) Referred To Wildlife, Fisheries and Parks; Ways and Means
- 2 02/23 (H) DR - TSDPCS: WI To WM
- 3 02/27 (H) DR - TSDPCS: WM To WI
- 4 02/28 (H) Title Suff Do Pass Comm Sub
- 5 03/08 (H) Committee Substitute Adopted
- 6 03/08 (H) Passed *{Vote}*
- 7 03/09 (H) Transmitted To Senate
- 8 03/16 (S) Referred To Wildlife, Fisheries and Parks; Finance
- 9 03/29 (S) DR - TSDP: WI To FI
- 10 04/03 (S) Title Suff Do Pass
- 11 04/05 (S) Passed *{Vote}*
- 12 04/09 (S) Transmitted To House
- 13 04/11 (H) Enrolled Bill Signed
- 14 04/12 (S) Enrolled Bill Signed
- 15 04/18 Approved by Governor

Code Section: A 049-0005-0025, RP 049-0005-0027

----- Additional Information -----

House Committee: Wildlife, Fisheries and Parks, Ways and Means

Senate Committee: Wildlife, Fisheries and Parks, Finance

Principal Author: Morgan

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Morgan

To: Wildlife, Fisheries and
Parks; Ways and Means

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 848

AN ACT TO AMEND SECTION 49-5-25, MISSISSIPPI CODE OF 1972, TO REVISE THE STATE ASSENT TO FEDERAL AID LEGISLATION TO ENSURE THE CONSERVATION OF FISH AND WILDLIFE; TO PROVIDE THAT REVENUE FROM HUNTING AND FISHING LICENSE SALES SHALL BE UNDER THE EXCLUSIVE CONTROL OF THE STATE FISH AND WILDLIFE AGENCY FOR THE SOLE USE OF THE ADMINISTRATION OF THE AGENCY; TO REPEAL SECTION 49-5-27, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE STATE OF MISSISSIPPI'S ASSENT TO THE PROVISIONS OF FISH RESTORATION AND MANAGEMENT PROJECTS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 49-5-25, Mississippi Code of 1972, is amended as follows:

49-5-25. The State of Mississippi hereby assents to the provisions of the Pittman-Robertson Wildlife Restoration Act of 1937 (Public Law No. 415, 75th Congress, 1st Session), and the Dingell-Johnson Sport Fish Restoration Act of 1950 (Public Laws 681, 81st Congress), and the commission may perform any acts as may be necessary to ensure the conservation of fish and wildlife. Revenue from hunting and fishing license sales shall be under the exclusive control of the state fish and wildlife agency for the sole use of the administration of the state fish and wildlife agency, which includes only the functions required to manage the agency and the fish and wildlife-related resources for which the agency has authority under state law.

SECTION 2. Section 49-5-27, Mississippi Code of 1972, which provides the State of Mississippi's assent to the provisions of the Fish Restoration and Management Projects Act, is repealed.

SECTION 3. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

House Bill 860

Description: Scholarship awards; provide that certain repayments of shall be deposited in the Consolidated Revolving Loan Fund.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 02/20 (H) Referred To Universities and Colleges; Appropriations
- 2 02/22 (H) DR - TSDP: UC To AP
- 3 03/06 (H) DR - TSDP: AP To UC
- 4 03/06 (H) Title Suff Do Pass
- 5 03/13 (H) Read the Third Time
- 6 03/15 (H) Passed (Vote)
- 7 03/16 (H) Transmitted To Senate
- 8 03/20 (S) Referred To Universities and Colleges
- 9 03/21 (S) Title Suff Do Pass
- 10 03/23 (S) Passed (Vote)
- 11 03/26 (S) Transmitted To House
- 12 03/28 (H) Enrolled Bill Signed
- 13 03/28 (S) Enrolled Bill Signed
- 14 04/03 Approved by Governor

Code Section: A 037-0159-0003, A 037-0159-0017, A 037-0143-0019

----- Additional Information -----

House Committee: Universities and Colleges, Appropriations

Senate Committee: Universities and Colleges

Principal Author: Mettetal

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Mettetal

To: Universities and
Colleges; Appropriations

HOUSE BILL NO. 860

AN ACT TO AMEND SECTION 37-159-3, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MONIES COLLECTED IN REPAYMENT OF SCHOLARSHIP AWARDS BY CRITICAL NEEDS TEACHER SCHOLARSHIP PROGRAM PARTICIPANTS SHALL BE DEPOSITED IN THE CONSOLIDATED REVOLVING LOAN FUND; TO AMEND SECTIONS 37-159-17 AND 37-143-19, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-159-3, Mississippi Code of 1972, is amended as follows:

37-159-3. (1) There is established the "Critical Needs Teacher Scholarship Program," the purpose of which is to attract qualified teachers to those geographical areas of the state and those subject areas of the curriculum where there exists a critical shortage of teachers by awarding full scholarships to persons declaring an intention to serve in the teaching field who actually render service to the state while possessing an appropriate teaching license.

(2) Any individual who is enrolled in or accepted for enrollment at a teacher education program approved by the State Board of Education or other program at a baccalaureate degree-granting institution of higher learning in the State of Mississippi and has a passing score on the Praxis I Basic Skills Test who expresses in writing an intention to teach in a geographical area of the state or a subject area of the public school curriculum in which there exists a critical shortage of teachers, as designated by the State Board of Education, shall be eligible for a financial scholarship to be applied toward the costs of the individual's college education. The annual amount of

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the award shall be equal to the total cost for tuition, room and meals, books, materials and fees at the college or university in which the student is enrolled, not to exceed an amount equal to the highest total cost of tuition, room and meals, books, materials and fees assessed by a state institution of higher learning during that school year. Awards made to nonresidents of the state shall not include any amount assessed by the college or university for out-of-state tuition.

(3) Awards granted under the Critical Needs Teacher Scholarship Program shall be available to both full-time and part-time students. Students enrolling on a full-time basis may receive a maximum of two (2) annual awards. The maximum number of awards that may be made to students attending school on a part-time basis, and the maximum time period for part-time students to complete the number of academic hours necessary to obtain a baccalaureate degree in education, shall be established by rules and regulations jointly promulgated by the Board of Trustees of State Institutions of Higher Learning and the State Board of Education. Critical Needs Teacher Scholarships shall not be based upon an applicant's eligibility for financial aid.

(4) Awards granted under the Critical Needs Teacher Scholarship Program shall be made available to nontraditional licensed teachers showing a documented need for student loan repayment and employed in those school districts designated by the State Department of Education as a geographical area of the state or in a subject area of the curriculum in which there is a critical shortage of teachers. The maximum annual amount of this repayment should not exceed Three Thousand Dollars (\$3,000.00) and the maximum time period for repayment shall be no more than four (4) years.

(5) Except in those cases where employment positions may not be available upon completion of licensure requirements, at the beginning of the first school year in which a recipient of a

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Critical Needs Teacher Scholarship is eligible for employment as a licensed teacher or a nontraditional teacher intern pursuant to Section 37-3-2(6)(b), that person shall begin to render service as a licensed teacher or nontraditional teacher intern in a public school district in a geographical area of the state or a subject area of the curriculum where there is a critical shortage of teachers, as approved by the State Board of Education. Any person who received two (2) annual awards, or who received fewer than two (2) annual awards, or the equivalent of two (2) annual awards, shall render one (1) year's service as a licensed teacher for each year that the person received a full-time student scholarship.

(6) Any person failing to complete a program of study which will enable that person to become a licensed teacher or nontraditional teacher intern under Section 37-3-2(6)(b), as the case may be, shall become liable immediately to the Board of Trustees of State Institutions of Higher Learning for the sum of all Critical Needs Teacher Scholarship awards made to that person, plus interest accruing at the current Stafford Loan rate at the time the person abrogates his participation in the program. Any person failing to complete his teaching obligation, as required under subsection (4) of this section, shall become liable immediately to the board for the sum of all scholarship awards made to that person less the corresponding amount of any awards for which service has been rendered, plus interest accruing at the current Stafford Loan rate at the time the person discontinues his service, except in the case of a deferral of debt for cause by the State Board of Education when there is no employment position immediately available upon a teacher's completion of licensure requirements. After the period of such deferral, such person shall begin or resume teaching duties as required under subsection (4) or shall become liable to the board under this subsection. If a claim for payment under this subsection is placed in the hands

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of an attorney for collection, the obligor shall be liable for an additional amount equal to a reasonable attorney's fee.

(7) The obligations made by the recipient of a Critical Needs Teacher Scholarship award shall not be voidable by reason of the age of the student at the time of receiving the scholarship.

(8) Any student who, prior to July 1, 2003, has been accepted into the Critical Needs Teacher Scholarship Program under the authority of Section 37-159-3(4) shall be allowed to begin or remain in the scholar loan program based upon the prescribed guidelines of the State Department of Education, and conversion for those students with fewer than four (4) annual awards shall be based on one (1) year of service in either (a) a geographic area of the state in which there exists a critical shortage of teachers as determined by the State Board of Education, or (b) a subject area of the curriculum in the public schools in which there exists a critical shortage of teachers as determined by the State Board of Education, for each year a loan was received by the student. For those students that receive the equivalent of four (4) annual awards, such students shall render three (3) years of service.

(9) The Board of Trustees of State Institutions of Higher Learning and the State Board of Education shall jointly promulgate rules and regulations necessary for the proper administration of the Critical Needs Teacher Scholarship Program. The Board of Trustees of State Institutions of Higher Learning shall be the administering agency of the program.

(10) If insufficient funds are available to fully fund scholarship awards to all eligible students, the Board of Trustees of State Institutions of Higher Learning shall make the awards to first-time students on a first-come, first-served basis; however, priority consideration shall be given to persons previously receiving awards under the Critical Needs Teacher Scholarship Program.

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(11) All funds received by the Board of Trustees of State Institutions of Higher Learning from the repayment of scholarship awards by program participants shall be deposited in the Consolidated Revolving Loan Fund in accordance with Section 37-143-19.

(12) Where local school districts exhibit financial need, the State Department of Education may, subject to the availability of funds specifically appropriated therefor by the Legislature, provide financial assistance for the recruitment of certified teachers in an amount not to exceed Seventy-five Thousand Dollars (\$75,000.00), annually.

SECTION 2. Section 37-159-17, Mississippi Code of 1972, is amended as follows:

37-159-17. There is established in the State Treasury a special fund to be designated the "Mississippi Critical Teacher Shortage Fund," into which shall be deposited those funds appropriated by the Legislature, and any other funds that may be made available, for the purpose of implementing the programs established under Sections * * * 37-159-5, 37-9-77, 37-3-91 and 37-159-9 through 37-159-13. Money in the fund at the end of a fiscal year shall not lapse into the General Fund, and interest earned on any amounts deposited into the fund shall be credited to the special fund.

SECTION 3. Section 37-143-19, Mississippi Code of 1972, is amended as follows:

37-143-19. The Board of Trustees of State Institutions of Higher Learning is authorized to establish a consolidated revolving loan fund for the purpose of providing monies for the operation of all loan or scholarship programs authorized to the Board of Trustees of State Institutions of Higher Learning by this chapter, and to the Postsecondary Education Financial Assistance Board by the provisions of Chapter 106, Title 37, Mississippi Code of 1972, and for the purpose of providing monies for the operation

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of such other loan programs as may be deemed appropriate and authorized by the Board of Trustees of State Institutions of Higher Learning from time to time for the furtherance of education of eligible applicants. The board shall be charged with the duty of directing the dispensing of such funds in a manner so as to best effectuate the purpose of this chapter. Any monies collected in the form of repayment of loans, both principal and interest, and the repayment of scholarship awards under Section 37-159-3(11) shall be deposited in this fund. The board of trustees is authorized to maintain such revolving fund in an official state depository and, in accordance with Section 27-105-21, Mississippi Code of 1972, shall invest such funds, less the amount required for current operation, at interest as required by said section. All interest earned on such investments shall likewise be deposited in said fund. From such revolving fund, the board of trustees shall provide the Postsecondary Education Financial Assistance Board such sums as shall be required to fulfill its role as lender of last resort to the Guarantee Student Loan program. The assets of the Postsecondary Education Financial Assistance Board, including cash and loans on hand, shall not exceed Five Hundred Thousand Dollars (\$500,000.00), and repayments of principal and interest and all other revenue of such board shall be deposited in the fund created hereby.

From and after the effective date of this chapter [Laws, 1991, Chapter 547, effective July 1, 1991], the sums maintained in the respective revolving funds being repealed by Chapter 547, Laws, 1991, or other revolving funds being maintained by the board of trustees shall become and constitute the monies of the consolidated revolving fund created by this section, wherever such funds may be physically located. The board of trustees is hereby authorized to transfer said funds to an official state depository, as aforesaid.

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SECTION 4. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

House Bill 865

Description: Uniform Transfer-on-Death Security Registration Act; revise definition of "security account."

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Banking and Financial Services
- 2 02/28 (H) Title Suff Do Pass
- 3 03/08 (H) Passed Y/N
- 4 03/09 (H) Transmitted To Senate
- 5 03/16 (S) Referred To Business and Financial Institutions; Judiciary, Division B
- 6 03/27 (S) DR - TSDP: BF To JB
- 7 03/29 (S) Title Suff Do Pass
- 8 04/04 (S) Passed Y/N
- 9 04/05 (S) Transmitted To House
- 10 04/10 (S) Enrolled Bill Signed
- 11 04/10 (H) Enrolled Bill Signed
- 12 04/16 Approved by Governor

Code Section: A 091-0021-0003

----- Additional Information -----

House Committee: Banking and Financial Services

Senate Committee: Business and Financial Institutions, Judiciary, Division B

Principal Author: Mayo

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Mayo

To: Banking and Financial
Services

HOUSE BILL NO. 865

AN ACT TO AMEND SECTION 91-21-3, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF "SECURITY ACCOUNT" FOR THE PURPOSES OF THE MISSISSIPPI UNIFORM TRANSFER-ON-DEATH SECURITY REGISTRATION ACT TO INCLUDE INVESTMENT MANAGEMENT AND CUSTODY ACCOUNTS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 91-21-3, Mississippi Code of 1972, is amended as follows:

91-21-3. In this chapter, unless the context otherwise requires:

(a) "Beneficiary form" means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

(b) "Devisee" means any person designated in a will to receive a disposition of real or personal property.

(c) "Heirs" mean those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

(d) "Person" means an individual, a corporation, an organization or other legal entity.

(e) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

(f) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

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(g) "Register," including its derivatives, means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

(h) "Registering entity" means a person who originates or transfers a security title by registration, and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

(i) "Security" means a share, participation, or other interest in property, in a business or in an obligation of an enterprise or other issuer and includes a certificated security, an uncertificated security, and a security account.

(j) "Security account" means:

(i) A reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, cash equivalents, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account or a brokerage account, whether or not credited to the account before the owner's death;

(ii) An investment or custody account with a trust company or trust division of a bank with trust powers, including the securities in the account, a cash balance in the account and cash, cash equivalents, interest, earnings or dividends earned or declared on a security in the account, whether or not credited to the account before the owner's death; or

(iii) A cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

(k) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

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SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 866

Description: Public university property; authorize DFA to sell certain property at University of Southern Mississippi Gulf Coast.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Public Property
- 2 02/28 (H) Title Suff Do Pass Comm Sub
- 3 03/08 (H) Committee Substitute Adopted
- 4 03/08 (H) Passed (Vote)
- 5 03/09 (H) Transmitted To Senate
- 6 03/19 (S) Referred To Public Property
- 7 03/29 (S) Title Suff Do Pass
- 8 04/04 (S) Passed (Vote)
- 9 04/05 (S) Transmitted To House
- 10 04/10 (S) Enrolled Bill Signed
- 11 04/10 (H) Enrolled Bill Signed
- 12 04/16 Approved by Governor

----- Additional Information -----

House Committee: Public Property

Senate Committee: Public Property

Principal Author: Bennett

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Bennett

To: Public Property

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 866

AN ACT TO AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMINISTRATION, ACTING ON BEHALF OF THE BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING, TO SELL AND CONVEY PARCELS OF CERTAIN STATE-OWNED REAL PROPERTY AND ANY IMPROVEMENTS THEREON UNDER THE POSSESSION AND CONTROL OF THE UNIVERSITY OF SOUTHERN MISSISSIPPI GULF COAST, LOCATED IN THE CITY OF LONG BEACH, HARRISON COUNTY, MISSISSIPPI; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, is authorized to sell and convey parcels of certain state-owned real property and any improvements thereon under the possession and control of the University of Southern Mississippi Gulf Coast, located in the City of Long Beach, Harrison County, Mississippi, being in Harrison County, Mississippi, and more particularly described as follows:

A parcel of land situated in the City of Long Beach, First Judicial District of Harrison County, Mississippi, lying and being situated in the Widow N. Ladner private claim in Township 8 South, Range 12 West, being more particularly described as follows, to wit:

Commence at the intersection of the Southerly right of way line of the Louisville and Nashville Railroad with the Easterly line of the original Long Beach according to the recorded map of the City of Long Beach. In the Office of the Chancery Clerk, First Judicial District, Harrison County, Mississippi, said intersection also being on the Northerly margin of platted First Street; Thence run South 28 degrees 04 minutes 00 seconds East

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along the Easterly line of original Long Beach for a distance of 399.60 feet to a point on the Northerly margin of Second Street; Thence run South 28 degrees 05 minutes 30 seconds East for a distance of 362.10 feet to a point on the Northerly margin of Third Street; Thence run South 28 degrees 10 minutes 00 seconds East for a distance of 60.00 feet to an iron rod on the Southerly margin of Third Street at the Northeast corner of Lot 10, Block 12, original Long Beach; Thence run North 69 degrees 12 minutes 00 seconds East for a distance of 30.20 feet to an iron rod at the Northeast corner of property now or formerly belonging to Wallace E. Dugger; Thence run South 28 degrees 17 minutes 47 seconds West for a distance of 10.01 feet to an iron rod and the point of beginning; Thence run North 67 degrees 44 minutes 32 seconds East for a distance of 33.01 feet to an iron rod on the Southerly top of bank of an open ditch; Thence run in an Easterly direction along said Southerly top of bank the following bearings and distances, to wit; North 67 degrees 44 minutes 32 seconds East, 42.49 feet to an iron rod; North 74 degrees 56 minutes 17 seconds East, 64.29 feet to an iron rod; North 82 degrees 32 minutes 45 seconds East, 53.50 feet to an iron rod; North 69 degrees 03 minutes 06 seconds East, 160.65 feet to an iron rod and North 67 degrees 36 minutes 09 seconds East, 238.52 feet to an iron rod; Thence continue North 67 degrees 36 minutes 09 seconds East for a distance of 68.76 feet to an iron rod; Thence run South 28 degrees 13 minutes 48 seconds East for a distance of 70.80 feet to an iron rod; Thence run South 69 degrees 06 minutes 03 seconds West for a distance of 658.03 feet to an iron rod; Thence run North 28 degrees 17 minutes 47 seconds West for a distance of

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79.90 feet to the point of beginning, containing 44,798 square feet or 1.03 acres.

(2) The real property described in subsection (1) of this section shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers, one (1) of which who shall be selected by the Department of Finance and Administration, and both of which shall be certified and licensed by the Mississippi Real Estate Appraiser Licensing and Certification Board. The real property described in subsection (1) may only be sold to a nonprofit entity located adjacent to that real property and with whom the university has begun negotiations to sell such real property.

(3) The State of Mississippi shall retain all mineral rights to the real property sold under this section.

(4) Proceeds from the sale of the real property described in subsection (1) of this section shall be deposited into a special fund in the State Treasury and shall be expended only for the benefit of the University of Southern Mississippi Gulf Coast.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 895

Description: Public Property; authorize DFA to donate certain property in Lauderdale County to Meridian Community College.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Two/Thirds

Effective date: Passage

History of Actions:

- 1 02/20 (H) Referred To Public Property
- 2 02/28 (H) Title Suff Do Pass
- 3 03/08 (H) Passed *(Vote)*
- 4 03/09 (H) Transmitted To Senate
- 5 03/16 (S) Referred To Public Property
- 6 03/29 (S) Title Suff Do Pass
- 7 04/04 (S) Passed *(Vote)*
- 8 04/05 (S) Transmitted To House
- 9 04/10 (S) Enrolled Bill Signed
- 10 04/10 (H) Enrolled Bill Signed
- 11 04/16 Approved by Governor

----- Additional Information -----

House Committee: Public Property

Senate Committee: Public Property

Principal Author: Snowden

2012 GENERAL LAWS OF MISSISSIPPI, HB 895

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Snowden

To: Public Property

HOUSE BILL NO. 895

AN ACT TO AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMINISTRATION, ACTING ON BEHALF OF THE MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY, TO DONATE TO MERIDIAN COMMUNITY COLLEGE IN MERIDIAN, MISSISSIPPI, CERTAIN REAL PROPERTY AND ANY IMPROVEMENTS THEREON UNDER THE POSSESSION AND CONTROL OF THE MISSISSIPPI HIGHWAY PATROL, LOCATED IN THE CITY OF MERIDIAN, LAUDERDALE COUNTY, MISSISSIPPI; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Mississippi Department of Public Safety, is authorized to donate and convey to Meridian Community College, certain real property and any improvements thereon, located at 841 Highway 19 North, in the City of Meridian, Lauderdale County, Mississippi, currently occupied by the Mississippi Highway Patrol, Troop H, and more particularly described as follows:

Commencing at the SW corner of the SE 1/4 of the NE 1/4 of Section 14, Township 6 North, Range 15 East, Meridian, Lauderdale County, Mississippi; thence East 34.00 feet to a point; thence North 30.00 feet to an iron pin set at the intersection of the Northern right-of-way of Valley Street and the Eastern right-of-way of 53rd Avenue, and said pin being the Point of Beginning of the herein described parcel of land; thence with said Eastern right-of-way of 53rd Avenue run North 00 degrees 38 minutes 07 seconds West 692.38 feet, more or less, passing an iron pin found at 349.96 feet to an iron pin set on the Southern right-of-way of Mississippi Highway 19; thence leaving

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said 53rd Avenue and with the right-of-way of Highway 19, run south 72 degrees 55 minutes 04 seconds East 259.34 feet along said Southern right-of-way of Mississippi Highway 19, passing a right-of-way monument found at 205.27 feet and an iron pin found at 211.22 feet to an iron pin set; thence South 17 degrees 05 minutes 07 seconds West 15.00 feet to an iron pin set; thence South 72 degrees 54 minutes 53 seconds East 150.00 feet to a right-of-way monument found (disturbed); thence North 17 degrees 22 minutes 07 seconds East 25.00 feet to a right-of-way monument on the South right-of-way of Mississippi Highway 19; thence South 73 degrees 03 minutes 29 seconds East 315.62 feet along said Southern right-of-way passing a right-of-way monument found at 284.85 feet to an iron pin set; thence along a curve to the right on the South right-of-way of Mississippi Highway 19 472.42 feet, said curve having a radius of 323.03 feet and a chord bearing and distance of South 31 degrees 09 minutes 42 seconds East 431.43 feet to a right-of-way monument on the Western right-of-way of said Highway 19 and Highway 11; thence along said Highway 11 right-of-way South 10 degrees 44 minutes 05 seconds West 117.47 feet to an iron pin set on the Northern right-of-way of Valley Street; thence with said Northern right-of-way of Valley Street South 89 degrees 40 minutes 30 seconds West 889.65 feet, more or less, to the Point of Beginning and being a part of the SE 1/4 of the NE 1/4 of Section 14, Township 6 North, Range 15 East, Meridian, Lauderdale County, Mississippi and containing 11.36 acres, more or less.

LESS AND EXCEPT THEREFROM the 3.9 acres, more or less, in the SW portion of the above described property presently being occupied by the Lauderdale County Health

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and Human Services Complex, and being more particularly described in that certain May 5, 1986 LEASE AGREEMENT appearing within Book 1047 at Page 195 among the land records in the Office of the Chancery Clerk of Lauderdale County, Mississippi; and, the 1.50 acres, more or less, in the North portion of the above described property owned by the Meridian Community College, and being more particularly described in that certain June 23, 2006 WARRANTY DEED appearing in Book 2165 at Page 461 among the land records in the Office of the Chancery Clerk of Lauderdale County, Mississippi; and, the 4.50 acres, more or less, in the South and Easterly portion of the above described property owned by the Meridian Community College, and being more particularly described in that certain October 10, 2006 WARRANTY DEED appearing in Book 2176 at Page 490 among the land records in the Office of the Chancery Clerk of Lauderdale County, Mississippi.

(2) If at any time after the donation of the real property described in subsection (1) of this section Meridian Community College, ceases to use the real property for the purposes intended at the time of donation, the college shall forfeit its rights, title and interest in the real property, and all of the rights, title and interest in the real property shall revert back to the State of Mississippi.

(3) The State of Mississippi shall retain all mineral rights to the real property donated under this section.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

House Bill 909

Description: School maintenance fund; extend repealer on requirement that districts with low ending balance file budget cuts plan.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Education
- 2 03/05 (H) Title Suff Do Pass
- 3 03/08 (H) Passed *{Vote}*
- 4 03/09 (H) Transmitted To Senate
- 5 03/19 (S) Referred To Education
- 6 04/03 (S) Title Suff Do Pass
- 7 04/04 (S) Passed *{Vote}*
- 8 04/05 (S) Transmitted To House
- 9 04/10 (S) Enrolled Bill Signed
- 10 04/10 (H) Enrolled Bill Signed
- 11 04/16 Approved by Governor

Code Section: A 037-0061-0008

----- **Additional Information** -----

House Committee: Education

Senate Committee: Education

Principal Author: Formby

2012 GENERAL LAWS OF MISSISSIPPI, HB 909

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Formby

To: Education

HOUSE BILL NO. 909

AN ACT TO AMEND SECTION 37-61-8, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER FROM JULY 1, 2012, TO JULY 1, 2015, ON THE PROVISION REQUIRING SCHOOL DISTRICTS WITH A LOW ENDING BALANCE OF SCHOOL MAINTENANCE FUNDS TO SUBMIT PLANS OF COST REDUCTIONS TO THE STATE DEPARTMENT OF EDUCATION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-61-8, Mississippi Code of 1972, is amended as follows:

37-61-8. (1) * * * Whenever a school district has an ending fund balance in the maintenance fund of the school district which is an amount equal to less than seven percent (7%) of the total revenue deposited into the district maintenance fund during that fiscal year, the school board of the school district shall prepare and file with the State Department of Education a plan under which the district intends to reduce costs in the district. The plan must be submitted by the school board to the department contemporaneously with the budgetary information required under Section 37-61-9(2).

(2) The State Board of Education may adopt rules and regulations prescribing the specific contents required to be included in a plan submitted by a local school board to the department under subsection (1) of this section. The rules and regulations may include provisions addressing the following matters:

(a) A description of the financial data or documents and budgetary information that a district must submit to the department;

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(b) A description of the manner by which the school district intends to achieve costs savings, demonstrated by actual reductions in budgeted expenditures;

(c) A requirement that before a school board makes expenditure cuts by reductions in the number of instructional employees or by reducing any discretionary supplemental amounts paid to instructional personnel, significant cost savings must be demonstrated by reducing the number of noninstructional personnel or the amounts paid to those employees, or both; and

(d) Any other information deemed necessary by the State Board of Education.

(3) After analyzing a plan that has been filed with the department under subsection (1), the department shall either approve the plan as submitted by the school board or alternatively, withhold approval and return the plan to the district with guidance or instructions, which may require resubmission of the plan by the school board for further review after changes have been made to the plan.

(4) This section shall stand repealed on July 1, 2015.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

**Mississippi Legislature
2012 Regular Session
House Bill 948**

Description: Agricultural high schools; repeal section that establishes certain standards required of.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Education
- 2 03/02 (H) Title Suff Do Pass
- 3 03/08 (H) Passed (Vote)
- 4 03/09 (H) Transmitted To Senate
- 5 03/19 (S) Referred To Education
- 6 04/03 (S) Title Suff Do Pass
- 7 04/04 (S) Passed (Vote)
- 8 04/05 (S) Transmitted To House
- 9 04/10 (S) Enrolled Bill Signed
- 10 04/10 (H) Enrolled Bill Signed
- 11 04/16 Approved by Governor

Code Section: RP 037-0027-0019

----- Additional Information -----

House Committee: Education

Senate Committee: Education

Principal Author: Barker

2012 GENERAL LAWS OF MISSISSIPPI, HB 948

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Barker

To: Education

HOUSE BILL NO. 948

AN ACT TO REPEAL SECTION 37-27-19, MISSISSIPPI CODE OF 1972, WHICH ESTABLISHES CERTAIN STANDARDS REQUIRED OF AGRICULTURAL HIGH SCHOOLS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-27-19, Mississippi Code of 1972, which establishes certain standards required of agricultural high schools, is repealed.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 966

Description: Depositories for funds of local governments; revise manner by which banks are chosen to serve as.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No



Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 02/20 (H) Referred To County Affairs;Banking and Financial Services
- 2 02/28 (H) DR - TSDP: CA To BB
- 3 02/28 (H) DR - TSDP: BB To CA
- 4 02/28 (H) Title Suff Do Pass
- 5 03/08 (H) Amended
- 6 03/08 (H) Passed As Amended Y/N
- 7 03/09 (H) Transmitted To Senate
- 8 03/16 (S) Referred To Business and Financial Institutions
- 9 03/27 (S) Title Suff Do Pass
- 10 04/04 (S) Passed Y/N
- 11 04/05 (S) Transmitted To House
- 12 04/10 (S) Enrolled Bill Signed
- 13 04/10 (H) Enrolled Bill Signed
- 14 04/16 Approved by Governor

Amendments:

  [H] Amendment No 1 *Adopted* *Yeas 10 Nays 0*

Code Section: A 027-0105-0305

---- Additional Information ----

House Committee: County Affairs, Banking and Financial Services

Senate Committee: Business and Financial Institutions

Principal Author: Gipson

2012 GENERAL LAWS OF MISSISSIPPI, HB 966

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Gipson

To: County Affairs; Banking
and Financial Services

HOUSE BILL NO. 966
(As Passed the House)

AN ACT TO AMEND SECTION 27-105-305, MISSISSIPPI CODE OF 1972, TO REVISE THE MANNER BY WHICH COUNTY BOARDS OF SUPERVISORS SELECT BANKS TO SERVE AS A DEPOSITORY FOR THE COUNTY; TO AUTHORIZE THE BOARD OF SUPERVISORS TO SUBMIT BIDS RECEIVED FROM BANKS TO THE STATE TREASURER IF THE ACCEPTED CONTRACT WOULD PROVIDE A DIRECT OR INDIRECT INTEREST TO A MEMBER OF THE BOARD; TO PROVIDE THE STATE TREASURER WITH THE SAME AUTHORITY OF THE BOARD OF SUPERVISORS FOR MAKING A DETERMINATION OF ACCEPTING SUCH BIDS; TO PROHIBIT THE BOARD FROM CONSIDERING ANY BID WHICH, IF ACCEPTED, WOULD CREATE A DIRECT OR INDIRECT INTEREST TO A MEMBER OF THE BOARD; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-105-305, Mississippi Code of 1972, is amended as follows:

27-105-305. The board of supervisors at the regular December 1997 meeting, and annually thereafter or, in the discretion of the board of supervisors, every two (2) years thereafter, shall give notice to all financial institutions in its county whose accounts are insured by the Federal Deposit Insurance Corporation * * * (or any successor thereto), by publication, that bids will be received from financial institutions at the following January meeting, or some subsequent meeting, for the privilege of keeping the county funds, or any part thereof, which notice shall refer by name to this article and it shall not be necessary to incorporate in the notice the provisions of this article; and at the January meeting, or a subsequent meeting as may be designated in the notice, as the case may be, the board of supervisors shall receive such bids or proposals as the financial institutions may make for the privilege of keeping the county funds, or any part thereof. The bids or proposals shall designate the kind of security as authorized by law which the financial institutions propose to give as security

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for funds, and the board shall cause the county funds and all other funds in the hands of the county treasurer to be deposited in the qualified financial institution or qualified institutions proposing the best terms and meeting the requirements provided in Section 27-105-315, having in view the safety of such funds.

However, if a bank submits a bid or offer to the board of supervisors to act as a depository for the county and the bid or offer, if accepted, would result in a contract in which a member of the board of supervisors would have a direct or indirect interest, the board of supervisors may elect to not open or consider any bids received and submit the matter to the State Treasurer. Upon receipt of the bids received from the board of supervisors, the State Treasury shall open and consider the bids received, select a depository or depositories, make all decisions and take any action within the authority of the board of supervisors under this section relating to the selection of a depository or depositories, including:

(a) The selecting and opening of accounts;

(b) Approval of securities;

(c) The transfer and deposit of funds between depositories; and

(d) All other related functions.

If the board of supervisors elects to open and consider the bids or offers, it shall not open or consider any bid which, if accepted, would result in a contract in which a member of the board of supervisors would have a direct or indirect interest.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

House Bill 968

Description: Business improvement districts; extend the period for which they are authorized and revise certain vote requirements.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Ways and Means
- 2 03/01 (H) Title Suff Do Pass
- 3 03/12 (H) Passed *[Vote]*
- 4 03/13 (H) Transmitted To Senate
- 5 03/16 (S) Referred To Finance
- 6 03/29 (S) Title Suff Do Pass
- 7 04/04 (S) Passed *[Vote]*
- 8 04/05 (S) Transmitted To House
- 9 04/10 (S) Enrolled Bill Signed
- 10 04/10 (H) Enrolled Bill Signed
- 11 04/16 Approved by Governor

Code Section: A 021-0043-0117, A 021-0043-0119, A 021-0043-0131, A 021-0043-0113

----- Additional Information -----

House Committee: Ways and Means

Senate Committee: Finance

Principal Author: Smith (39th)

Additional Authors: Calhoun

2012 GENERAL LAWS OF MISSISSIPPI, HB 968

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Smith (39th), Calhoun

To: Ways and Means

HOUSE BILL NO. 968

AN ACT TO AMEND SECTIONS 21-43-117, 21-43-119 AND 21-43-131, MISSISSIPPI CODE OF 1972, TO EXTEND TO TEN YEARS THE PERIOD THAT A BUSINESS IMPROVEMENT DISTRICT MAY EXIST BEFORE IT MUST BE REAUTHORIZED; TO REDUCE TO 60% OF THE PARTICIPATING ELIGIBLE PROPERTY OWNERS, THE VOTE NECESSARY TO ADOPT, IMPLEMENT OR REAUTHORIZE A BUSINESS IMPROVEMENT DISTRICT OR MODIFY THE BOUNDARIES OF A BUSINESS IMPROVEMENT; TO AMEND SECTION 21-43-113, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 21-43-117, Mississippi Code of 1972, is amended as follows:

21-43-117. (1) For initial creation of the district, reauthorization of the district at the end of each ten-year period, amendment to the district plan within the ten-year plan period or modification of the boundaries of the district at the end of a ten-year period, the clerk of the municipality shall notify all property owners to be included in the proposed district of a public hearing to review the plan and receive comment about the process for accepting or rejecting the plan. Following a public hearing, "the governing authority of the municipality shall set an election date not more than sixty (60) days from the date of the public hearing. The ballot shall clearly state the issue to be decided. Only property owners of record as of the date of initial notice given as provided in Section 21-43-111 shall be eligible to participate in any such election.

(2) Notice of an election to create, continue, amend or extend a district shall be:

(a) Mailed to each of the district property owners of record thirty (30) days prior to the election, and

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(b) Published at least twice in a newspaper of general circulation in the municipality, the first publication shall be not less than ten (10), nor more than thirty (30) days before the date for the election. The notice shall include a copy of the plan, a ballot for the election and a notice about the time and date for the election.

(3) Not less than ten (10) nor more than thirty (30) days before the date set for the election, the governing authority of the municipality shall cause a copy of the plan and the ballot to be posted in the lobby of its city hall.

(4) Ballots shall be marked, signed and submitted by the eligible property owner to the clerk of the municipality by the date designated on the ballot.

(5) The clerk of the municipality shall notify the property owners in the district of the result.

(6) If the plan is approved by sixty percent (60%) of the participating eligible property owners, the mayor of the municipality shall review the district plan to ensure its compliance with the provisions of Sections 21-43-101 through 21-43-133.

(7) The municipality shall disburse the proceeds collected from the assessment to the designated district management group within thirty (30) days after the assessment is due.

SECTION 2. Section 21-43-119, Mississippi Code of 1972, is amended as follows:

21-43-119. A district plan shall be deemed adopted and ready for implementation upon written ballot approval by sixty percent (60%) of the participating eligible property owners in the district. Reauthorization, amendments of the district plan or modification of boundaries shall also be subject to written ballot approval by sixty percent (60%) of the participating eligible property owners.

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SECTION 3. Section 21-43-131, Mississippi Code of 1972, is amended as follows:

21-43-131. The initial authorization for any business improvement district shall be for ten (10) years. During the last twelve (12) months of the tenth year of the authorization, a new district plan must be developed which meets all of the initial requirements of the district plan plus reauthorizes the district for another ten (10) years. Reauthorization requires the same approval process as initial establishment and authorization of the district. Should the district fail to receive reauthorization from the affected property owners in the district, the business improvement district will cease to exist at the conclusion of the most recently approved ten-year period or as soon thereafter as any outstanding indebtedness is satisfied. The ability to reauthorize rests solely with the affected property owners in the district.

SECTION 4. Section 21-43-113, Mississippi Code of 1972, is amended as follows:

21-43-113. In order to establish a business improvement district, and upon establishment, every tenth year thereafter, those property owners which make up the area of the proposed district shall be notified of a meeting by United States mail no less than ten (10) days prior to the scheduled date of the meeting. Notification shall include the specific location, date and time of the meeting. The goal of the meeting shall be to develop a district plan for the upcoming ten-year period. Such plan shall be agreed upon by a majority of those property owners in attendance at the meeting. Such district plan shall include the following:

(a) A description of the boundaries of the district sufficient to identify the lands included;

(b) The improvements proposed and the maximum cost thereof for each of the coming ten (10) years;

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(c) The total amount proposed to be expended for improvements for and in the district during the upcoming ten (10) years;

(d) The proposed source or sources of financing and funding for the improvements;

(e) The proposed target dates for beginning the implementation of the improvements;

(f) The naming of the district management group for the upcoming ten (10) years; and

(g) A listing of the individual properties to be included in the district with any assessment computed and identified for each property based upon gross square footage of buildings and unimproved real estate. The plan may provide that tax exempt properties be included in the district but not be subject to any assessment.

SECTION 5. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 987

Description: Municipalities; authorize to lease small parcels of land with two appraisals.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Municipalities
- 2 03/06 (H) Title Suff Do Pass
- 3 03/09 (H) Passed *Vote*
- 4 03/12 (H) Transmitted To Senate
- 5 03/15 (S) Referred To Accountability, Efficiency, Transparency
- 6 04/02 (S) Title Suff Do Pass
- 7 04/05 (S) Passed *Vote*
- 8 04/09 (S) Transmitted To House
- 9 04/11 (H) Enrolled Bill Signed
- 10 04/12 (S) Enrolled Bill Signed
- 11 04/18 Approved by Governor

Code Section: A 021-0017-0001

---- Additional Information ----

House Committee: Municipalities

Senate Committee: Accountability, Efficiency, Transparency

Principal Author: Zuber

Additional Authors: Beckett, Guice

2012 GENERAL LAWS OF MISSISSIPPI, HB 987

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Zuber, Beckett, Guice

To: Municipalities

HOUSE BILL NO. 987

AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE GOVERNING AUTHORITY OF A MUNICIPALITY TO LEASE PROPERTY OF LESS THAN ONE THOUSAND FIVE HUNDRED SQUARE FEET TO ANY PERSON OR LEGAL ENTITY BY HAVING TWO APPRAISALS ESTABLISH THE FAIR MARKET VALUE OF THE LEASE, AND ON SUCH OTHER TERMS AND CONDITIONS AS THE PARTIES MAY AGREE, SUCH LEASE BEING LAWFULLY ADOPTED AND SPREAD UPON ITS OFFICIAL MINUTES; TO REVISE THE NUMBER OF APPRAISALS REQUIRED TO DETERMINE THE FAIR MARKET VALUE OF CERTAIN MUNICIPAL PROPERTY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 21-17-1, Mississippi Code of 1972, is amended as follows:

21-17-1. (1) Every municipality of this state shall be a municipal corporation and shall have power to sue and be sued; to purchase and hold real estate, either within or without the corporate limits, for all proper municipal purposes, including parks, cemeteries, hospitals, schoolhouses, houses of correction, waterworks, electric lights, sewers and other proper municipal purposes; to purchase and hold personal property for all proper municipal purposes; to acquire equipment and machinery by lease-purchase agreement and to pay interest thereon, if contracted, when needed for proper municipal purposes; and to sell and convey any real and personal property owned by it, and make such order respecting the same as may be deemed conducive to the best interest of the municipality, and exercise jurisdiction over the same.

(2) (a) In case any of the real property belonging to a municipality shall cease to be used for municipal purposes, the governing authority of the municipality may sell, convey or lease the same on such terms as the municipal authority may elect. In

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case of a sale on a credit, the municipality shall charge appropriate interest as contracted and shall have a lien on the same for the purchase money, as against all persons, until paid and may enforce the lien as in such cases provided by law. The deed of conveyance in such cases shall be executed in the name of the municipality by the governing authority of the municipality pursuant to an order entered on the minutes. In any sale or conveyance of real property, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same. Except as otherwise provided in this section, before any such lease, deed or conveyance is executed, the governing authority of the municipality shall publish at least once each week for three (3) consecutive weeks, in a public newspaper of the municipality in which the real property is located, or if no newspaper be published as such, then in a newspaper having general circulation therein, the intention to lease or sell, as the case may be, the municipally owned real property and to accept sealed competitive bids for the leasing or sale. The governing authority of the municipality shall thereafter accept bids for the lease or sale and shall award the lease or sale to the highest bidder in the manner provided by law. However, whenever the governing authority of the municipality shall find and determine, by resolution duly and lawfully adopted and spread upon its minutes (i) that any municipally owned real property is no longer needed for municipal or related purposes and is not to be used in the operation of the municipality, (ii) that the sale of such property in the manner otherwise provided by law is not necessary or desirable for the financial welfare of the municipality, and (iii) that the use of such property for the purpose for which it is to be sold, conveyed or leased will promote and foster the development and improvement of the community in which it is located and the civic, social, educational, cultural, moral, economic or industrial welfare

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thereof, the governing authority of the municipality shall be authorized and empowered, in its discretion, to sell, convey or lease same for any of the purposes set forth herein without having to advertise for and accept competitive bids.

(b) In any case in which a municipality proposes to sell, convey or lease real property under the provisions of this subsection (2) without advertising for and accepting competitive bids, the governing authority may sell, convey or lease the property as follows:

(i) Consideration for the purchase, conveyance or lease of the property shall be not less than the average of the fair market price for such property as determined by at least two (2) professional property appraisers selected by the municipality and approved by the purchaser or lessee. Appraisal fees shall be shared equally by the municipality and the purchaser or lessee; or

(ii) The governing authority of a municipality may contract for the professional services of a Mississippi licensed real estate broker to assist the municipality in the marketing and sale or lease of the property, and may provide the broker reasonable compensation for services rendered to be paid from the sale or lease proceeds. The reasonable compensation shall not exceed the usual and customary compensation for similar services within the municipality;

(iii) The governing authority of a municipality may lease property of less than one thousand five hundred (1,500) square feet to any person or legal entity by having two (2) appraisals establish the fair market value of the lease, and on such other terms and conditions as the parties may agree, such lease being lawfully adopted and spread upon its official minutes.

(3) Whenever the governing authority of the municipality shall find and determine by resolution duly and lawfully adopted and spread upon the minutes that municipally owned real property

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is not used for municipal purposes and therefore surplus as set forth in subsection (2) of this section:

(a) (i) Except as otherwise provided in subparagraph (ii) of this paragraph (a), the governing authority may donate such lands to a bona fide not-for-profit civic or eleemosynary corporation organized and existing under the laws of the State of Mississippi and granted tax exempt status by the Internal Revenue Service and may donate such lands and necessary funds related thereto to the public school district in which the land is situated for the purposes set forth herein. Any deed or conveyance executed pursuant hereto shall contain a clause of reverter providing that the bona fide not-for-profit corporation or public school district may hold title to such lands only so long as they are continued to be used for the civic, social, educational, cultural, moral, economic or industrial welfare of the community, and that title shall revert to the municipality in the event of the cessation of such use for a period of two (2) years. In any such deed or conveyance, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same;

(ii) If the governing authority of a municipality with a total population of greater than forty thousand (40,000) but not more than forty-two thousand five hundred (42,500) according to the 2010 federal decennial census, donates real property, to a bona fide not-for-profit civic or eleemosynary corporation and such civic or eleemosynary corporation commits Two Million Dollars (\$2,000,000.00) to renovate or make capital improvements to the property by an agreement between a certain state institution of higher learning and the civic or eleemosynary corporation, then the clause of reverter required by this paragraph shall provide that title of such real property shall revert (i) to the bona fide not-for-profit civic or eleemosynary corporation, if a certain state institution of higher learning

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ceases to use the property for the purposes required by this paragraph (a) for donated lands or (ii) to the municipality, if a certain state institution of higher learning ceases to use the property for the purposes required by this paragraph (a) and the not-for-profit civic or eleemosynary corporation or its successor ceases to exist;

(b) (i) The governing authority may donate such lands to a bona fide not-for-profit corporation (such as Habitat for Humanity) which is primarily engaged in the construction of housing for persons who otherwise can afford to live only in substandard housing. In any such deed or conveyance, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same;

(ii) In the event the governing authority does not wish to donate title to such lands to the bona fide not-for-profit civic or eleemosynary corporation, but wishes to retain title to the lands, the governing authority may lease the lands to a bona fide not-for-profit corporation described in paragraph (a) or (b) for less than fair market value;

(c) The governing authority may donate any municipally owned lot measuring twenty-five (25) feet or less along the frontage line as follows: the governing authority may cause the lot to be divided in half along a line running generally perpendicular to the frontage line and may convey each one-half (1/2) of that lot to the owners of the parcels laterally adjoining the municipally owned lot. All costs associated with a conveyance under this paragraph (c) shall be paid by the person or entity to whom the conveyance is made. In any such deed or instrument of conveyance, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same;

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(d) Nothing contained in this subsection (3) shall be construed to prohibit, restrict or to prescribe conditions with regard to the authority granted under Section 17-25-3.

(4) Every municipality shall also be authorized and empowered to loan to private persons or entities, whether organized for profit or nonprofit, funds received from the United States Department of Housing and Urban Development (HUD) under an urban development action grant or a community development block grant under the Housing and Community Development Act of 1974 (Public Law 93-383), as amended, and to charge interest thereon if contracted, provided that no such loan shall include any funds from any revenues other than the funds from the United States Department of Housing and Urban Development; to make all contracts and do all other acts in relation to the property and affairs of the municipality necessary to the exercise of its governmental, corporate and administrative powers; and to exercise such other or further powers as are otherwise conferred by law.

(5) (a) The governing authority of any municipality may establish an employer-assisted housing program to provide funds to eligible employees to be used toward the purchase of a home. This assistance may be applied toward the down payment, closing costs or any other fees or costs associated with the purchase of a home. The housing assistance may be in the form of a grant, forgivable loan or repayable loan. The governing authority of a municipality may contract with one or more public or private entities to provide assistance in implementing and administering the program and shall adopt rules and regulations regarding the eligibility of a municipality for the program and for the implementation and administration of the program. However, no general funds of a municipality may be used for a grant or loan under the program.

(b) Participation in the program established under this subsection (5) shall be available to any eligible municipal employee as determined by the governing authority of the

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municipality. Any person who receives financial assistance under the program must purchase a house and reside within certain geographic boundaries as determined by the governing authority of the municipality.

(c) If the assistance authorized under this subsection (5) is structured as a forgivable loan, the participating employee must remain as an employee of the municipality for an agreed upon period of time, as determined by the rules and regulations adopted by the governing authority of the municipality, in order to have the loan forgiven. The forgiveness structure, amount of assistance and repayment terms shall be determined by the governing authority of the municipality.

(6) The governing authority of any municipality may contract with a private attorney or private collection agent or agency to collect any type of delinquent payment owed to the municipality, including, but not limited to, past due fees, fines and other assessments, or with the district attorney of the circuit court district in which the municipality is located to collect any delinquent fees, fines and other assessments. Any such contract debt may provide for payment contingent upon successful collection efforts or payment based upon a percentage of the delinquent amount collected; however, the entire amount of all delinquent payments collected shall be remitted to the municipality and shall not be reduced by any collection costs or fees. Any private attorney or private collection agent or agency contracting with the municipality under the provisions of this subsection shall give bond or other surety payable to the municipality in such amount as the governing authority of the municipality deems sufficient. Any private attorney with whom the municipality contracts under the provisions of this subsection must be a member in good standing of The Mississippi Bar. Any private collection agent or agency with whom the municipality contracts under the provisions of this subsection must meet all licensing requirements

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for doing business in the State of Mississippi. Neither the municipality nor any officer or employee of the municipality shall be liable, civilly or criminally, for any wrongful or unlawful act or omission of any person or business with whom the municipality has contracted under the provisions of this subsection. The Mississippi Department of Audit shall establish rules and regulations for use by municipalities in contracting with persons or businesses under the provisions of this subsection. If a municipality uses its own employees to collect any type of delinquent payment owed to the municipality, then from and after July 1, 2000, the municipality may charge an additional fee for collection of the delinquent payment provided the payment has been delinquent for ninety (90) days. The collection fee may not exceed twenty-five percent (25%) of the delinquent payment if the collection is made within this state and may not exceed fifty percent (50%) of the delinquent payment if the collection is made outside this state. In conducting collection of delinquent payments, the municipality may utilize credit cards or electronic fund transfers. The municipality may pay any service fees for the use of such methods of collection from the collection fee, but not from the delinquent payment. There shall be due to the municipality from any person whose delinquent payment is collected under a contract executed as provided in this subsection an amount, in addition to the delinquent payment, of not to exceed twenty-five percent (25%) of the delinquent payment for collections made within this state, and not to exceed fifty percent (50%) of the delinquent payment for collections made outside of this state.

(7) In addition to such authority as is otherwise granted under this section, the governing authority of any municipality may expend funds necessary to maintain and repair, and to purchase liability insurance, tags and decals for, any personal property

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acquired under the Federal Excess Personal Property Program that is used by the local volunteer fire department.

(8) The governing authority of any municipality may, in its discretion, donate personal property or funds to the public school district or districts located in the municipality for the promotion of educational programs of the district or districts within the municipality.

(9) In addition to the authority to expend matching funds under Section 21-19-65, the governing authority of any municipality, in its discretion, may expend municipal funds to match any state, federal or private funding for any program administered by the State of Mississippi, the United States government or any nonprofit organization that is exempt under 26 USCS Section 501(c)(3) from paying federal income tax.

(10) The governing authority of any municipality that owns and operates a gas distribution system, as defined in Section 21-27-11(b), and the governing authority of any public natural gas district are authorized to contract for the purchase of the supply of natural gas for a term of up to ten (10) years with any public nonprofit corporation which is organized under the laws of this state or any other state.

(11) The governing authority of any municipality may perform and exercise any duty, responsibility or function, may enter into agreements and contracts, may provide and deliver any services or assistance, and may receive, expend and administer any grants, gifts, matching funds, loans or other monies, in accordance with and as may be authorized by any federal law, rule or regulation creating, establishing or providing for any program, activity or service. The provisions of this subsection shall not be construed as authorizing any municipality or the governing authority of such municipality to perform any function or activity that is specifically prohibited under the laws of this state or as

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granting any authority in addition to or in conflict with the provisions of any federal law, rule or regulation.

(12) (a) In addition to such authority as is otherwise granted under this section, the governing authority of a municipality, in its discretion, may sell, lease, donate or otherwise convey property to any person or legal entity without public notice, without having to advertise for and accept competitive bids and without appraisal, with or without consideration, and on such terms and conditions as the parties may agree if the governing authority finds and determines, by resolution duly and lawfully adopted and spread upon its official minutes:

(i) The subject property is real property acquired by the municipality:

1. By reason of a tax sale;
2. Because the property was abandoned or blighted; or
3. In a proceeding to satisfy a municipal lien against the property;

(ii) The subject property is blighted and is located in a blighted area;

(iii) The subject property is not needed for governmental or related purposes and is not to be used in the operation of the municipality;

(iv) That the sale of the property in the manner otherwise provided by law is not necessary or desirable for the financial welfare of the municipality; and

(v) That the use of the property for the purpose for which it is to be conveyed will promote and foster the development and improvement of the community in which it is located or the civic, social, educational, cultural, moral, economic or industrial welfare thereof; the purpose for which the property is conveyed shall be stated.

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(b) Any deed or instrument of conveyance executed pursuant to the authority granted under this subsection shall contain a clause of reverter providing that title to the property will revert to the municipality if the person or entity to whom the property is conveyed does not fulfill the purpose for which the property was conveyed and satisfy all conditions imposed on the conveyance within two (2) years of the date of the conveyance.

(c) In any such deed or instrument of conveyance, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same.

(13) The governing authority of any municipality may enter into agreements and contracts with any housing authority, as defined in Section 43-33-1, to provide extra police protection in exchange for the payment of compensation or a fee to the municipality. This subsection shall stand repealed from and after July 1, 2014.

(14) The powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law, and nothing contained in this section shall be construed to prohibit, or to prescribe conditions concerning, any practice or practices authorized under any other law.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 997

Description: Deputy State Insurance Administrator; delete requirement that State Health Insurance Management Board must employ.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Insurance;Appropriations
- 2 02/28 (H) DR - TSDP: IN To AP
- 3 03/06 (H) DR - TSDP: AP To IN
- 4 03/06 (H) Title Suff Do Pass
- 5 03/09 (H) Passed 41-0-0-0-1
- 6 03/12 (H) Transmitted To Senate
- 7 03/15 (S) Referred To Insurance
- 8 03/28 (S) Title Suff Do Pass
- 9 04/04 (S) Passed 41-0-0-0-1
- 10 04/05 (S) Transmitted To House
- 11 04/10 (S) Enrolled Bill Signed
- 12 04/10 (H) Enrolled Bill Signed
- 13 04/16 Approved by Governor

Code Section: A 025-0015-0303

----- Additional Information -----

House Committee: Insurance, Appropriations

Senate Committee: Insurance

Principal Author: Chism

2012 GENERAL LAWS OF MISSISSIPPI, HB 997

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Chism

To: Insurance;
Appropriations

HOUSE BILL NO. 997

AN ACT TO AMEND SECTION 25-15-303, MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT THAT THE STATE AND SCHOOL EMPLOYEES HEALTH INSURANCE MANAGEMENT BOARD EMPLOY A DEPUTY STATE INSURANCE ADMINISTRATOR; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-15-303, Mississippi Code of 1972, is amended as follows:

25-15-303. (1) There is created the State and School Employees Health Insurance Management Board, which shall administer the State and School Employees Life and Health Insurance Plan provided for under Section 25-15-3 et seq. The State and School Employees Health Insurance Management Board, hereafter referred to as the "board," shall also be responsible for administering all procedures for selecting third-party administrators provided for in Section 25-15-301.

(2) The board shall consist of the following:

- (a) The Chairman of the Workers' Compensation Commission;
- (b) The State Personnel Director;
- (c) The Commissioner of Insurance;
- (d) The Commissioner of Higher Education;
- (e) The State Superintendent of Public Education;
- (f) The Executive Director of the Department of Finance and Administration;
- (g) The Executive Director of the State Board for Community and Junior Colleges;
- (h) The Executive Director of the Public Employees' Retirement System;

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(i) Two (2) appointees of the Governor whose terms shall be concurrent with that of the Governor, one (1) of whom shall have experience in providing actuarial advice to companies that provide health insurance to large groups and one (1) of whom shall have experience in the day-to-day management and administration of a large self-funded health insurance group;

(j) The Chairman of the Senate Insurance Committee, or his designee;

(k) The Chairman of the House of Representatives Insurance Committee, or his designee;

(l) The Chairman of the Senate Appropriations Committee, or his designee; and

(m) The Chairman of the House of Representatives Appropriations Committee, or his designee.

The legislators, or their designees, shall serve as ex officio, nonvoting members of the board.

The Executive Director of the Department of Finance and Administration shall be the chairman of the board.

(3) The board shall meet at least monthly and maintain minutes of the meetings. A quorum shall consist of a majority of the authorized voting membership of the board. The board shall have the sole authority to promulgate rules and regulations governing the operations of the insurance plans and shall be vested with all legal authority necessary and proper to perform this function including, but not limited to:

(a) Defining the scope and coverages provided by the insurance plan;

(b) Seeking proposals for services or insurance through competitive processes where required by law and selecting service providers or insurers under procedures provided for by law; and

(c) Developing and adopting strategic plans and budgets for the insurance plan.

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The department shall employ a State Insurance Administrator, who shall be responsible for the day-to-day management and administration of the insurance plan. * * * The Department of Finance and Administration shall provide to the board on a full-time basis personnel and technical support necessary and sufficient to effectively and efficiently carry out the requirements of this section.

(4) Members of the board shall not receive any compensation or per diem, but may receive travel reimbursement provided for under Section 25-3-41 except that the legislators shall receive per diem and expenses, which shall be paid from the contingent expense funds of their respective houses in the same amounts as provided for committee meetings when the Legislature is not in session; however, no per diem and expenses for attending meetings of the board shall be paid while the Legislature is in session.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 1086

Description: Commission on College Accreditation; revise which schools over which commission may exercise powers and authority.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Universities and Colleges
- 2 02/22 (H) Title Suff Do Pass Comm Sub
- 3 03/07 (H) Committee Substitute Adopted
- 4 03/07 (H) Passed (Vote)
- 5 03/09 (H) Transmitted To Senate
- 6 03/16 (S) Referred To Universities and Colleges
- 7 03/21 (S) Title Suff Do Pass
- 8 03/23 (S) Passed (Vote)
- 9 03/26 (S) Transmitted To House
- 10 03/28 (H) Enrolled Bill Signed
- 11 03/28 (S) Enrolled Bill Signed
- 12 03/30 Approved by Governor

Code Section: A 037-0101-0241

----- Additional Information -----

House Committee: Universities and Colleges

Senate Committee: Universities and Colleges

Principal Author: Mettetal

2012 GENERAL LAWS OF MISSISSIPPI, HB 1086

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Mettetal

To: Universities and
Colleges

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1086

AN ACT TO AMEND SECTION 37-101-241, MISSISSIPPI CODE OF 1972, TO REVISE THE PROVISIONS OF LAW REGARDING OVER WHICH SCHOOLS THE COMMISSION ON COLLEGE ACCREDITATION MAY EXERCISE CERTAIN POWERS AND AUTHORITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-101-241, Mississippi Code of 1972, is amended as follows:

37-101-241. (1) There is hereby created the Commission on College Accreditation. Said commission shall be composed of the Executive Director of the State Board for Community and Junior Colleges, the Commissioner of Higher Education, or their designees, and three (3) additional members, one (1) of whom shall be selected by the foregoing two (2) members and who shall represent the private colleges within the state, and two (2) of whom shall be selected by the Mississippi Association of Colleges. The latter three (3) members shall each serve for a term of three (3) years.

(2) The commission shall meet and organize by electing from among its membership a chairman, a vice chairman and a secretary. The commission shall keep full and complete minutes and records of all its proceedings and actions.

(3) The commission shall have the power and authority, and it shall be its duty, to prepare an approved list of community, junior and senior colleges and universities or other entities which offer one or more postsecondary academic degrees and are domiciled, incorporated or otherwise located in the State of Mississippi. Postsecondary academic degrees include, but are not limited to, associate, bachelor, masters and doctorate degrees.

2012 GENERAL LAWS OF MISSISSIPPI, HB 1086

The commission shall adopt standards which are in keeping with the best educational practices in accreditation and receive reports from the institutions seeking to be placed on the approved list.

(4) The above-described community, junior and senior colleges and universities or other entities must be approved annually by the commission in order to grant diplomas of graduation, degrees or offer instruction.

(5) The commission shall petition the chancery court of the county in which a person or agent offers one or more postsecondary academic degrees subject to the provisions of this chapter or advertises for the offering of such degrees without having first obtained approval by the commission, for an order enjoining such offering or advertising. The court may grant such injunctive relief upon a showing that the respondent named in the petition is offering or advertising one or more postsecondary academic degrees without having obtained prior approval of the commission. The Attorney General or the district attorney of the district, including the county in which such action is brought, shall, upon request of the commission, represent the commission in bringing any such action.

(6) The provisions of subsection (5) shall not apply to community, junior and senior colleges and universities with the main campus in Mississippi that were chartered, authorized or approved by the commission prior to July 1, 1988.

(7) The provisions of this section shall not apply to the proprietary schools and colleges subject to regulation under Section 75-60-1 et seq.

(8) The Commission on College Accreditation may promulgate rules and regulations and establish appropriate fees for the implementation of this section.

(9) The commission shall have the power and authority, and it shall be its duty, to execute site visits when deemed necessary

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by the commission. The members of the commission and commission-appointed evaluation teams shall receive reasonable traveling expenses and other authorized expenses incurred in the performance of commission duties, together with other expenses of the operation of the commission. The members of the Commission on College Accreditation shall serve without salary compensation but shall receive a per diem and mileage as authorized by law including time of going to and returning from site visits of said commission, together with actual travel and hotel expenses incident to the site visits of the commission, and in the discharge of duties prescribed by the commission.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 1095

Description: IHL; may allow universities to implement out-of-state tuition waiver policy if fiscally responsible.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Universities and Colleges
- 2 02/22 (H) Title Suff Do Pass
- 3 03/07 (H) Passed Unanimous
- 4 03/08 (H) Transmitted To Senate
- 5 03/15 (S) Referred To Universities and Colleges
- 6 03/21 (S) Title Suff Do Pass
- 7 03/23 (S) Passed Unanimous
- 8 03/26 (S) Transmitted To House
- 9 03/28 (H) Enrolled Bill Signed
- 10 03/28 (S) Enrolled Bill Signed
- 11 03/30 Approved by Governor

Code Section: A 037-0103-0025

----- Additional Information -----

House Committee: Universities and Colleges

Senate Committee: Universities and Colleges

Principal Author: Barker

Additional Authors: Harrison, Holloway, Horan, Mettetal, Watson, Monsour

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Barker, Harrison,
Holloway, Horan, Mettetal, Watson, Monsour

To: Universities and
Colleges

HOUSE BILL NO. 1095

AN ACT TO AMEND SECTION 37-103-25, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING TO ALLOW INSTITUTIONS TO WAIVE OUT-OF-STATE TUITION WHEN ACCORDANCE WITH A WAIVER POLICY IS REQUESTED BY THE PRESIDENT OR CHANCELLOR OF THE INSTITUTION AND DETERMINED TO BE FISCALLY RESPONSIBLE BY THE BOARD; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-103-25, Mississippi Code of 1972, is amended as follows:

37-103-25. (1) The Board of Trustees of State Institutions of Higher Learning and the boards of trustees of the community colleges and junior colleges are authorized to prescribe the amount of tuition and fees to be paid by students attending the several state-supported institutions of higher learning and community colleges and junior colleges of the State of Mississippi.

(2) Except as otherwise provided in this subsection and subsection (3) of this section, the total tuition to be paid by residents of other states shall not be less than the average cost per student from appropriated funds. However, the tuition to be paid by a resident of another state shall be equal to the tuition amount established under subsection (1) of this section if:

(a) The nonresident student was born in the State of Mississippi but subsequently relocated and resided outside the state as a minor under the care of the minor's father or mother, or both;

(b) The nonresident student is a veteran who served in the Armed Forces of the United States;

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(c) The nonresident student is domiciled in Mississippi no later than six (6) months after the nonresident student's separation from service, as evidenced by a Report of Separation from Military Service or other military discharge document, for the purpose of enrolling in a state institution of higher learning or a community or junior college; * * *

(d) The nonresident student is an evacuee of an area affected by Hurricane Katrina or Hurricane Rita. This waiver shall be applicable to the 2005-2006 school year only; or

(e) The nonresident student's out-of-state tuition was waived according to subsection (3) of this section.

(3) The Board of Trustees of State Institutions of Higher Learning may, in its discretion, consider and grant requests to approve institution specific policies permitting the waiver of out-of-state tuition when such an official request is made by the president or chancellor of the institution and when such request is determined by the board to be fiscally responsible and in accordance with the educational mission of the requesting institution.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 1104

Description: Uniform laws; enact Uniform Prudent Management of Institutional Funds Act.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Judiciary A
- 2 02/22 (H) Title Suff Do Pass
- 3 03/07 (H) Passed *{Vote}*
- 4 03/08 (H) Transmitted To Senate
- 5 03/15 (S) Referred To Business and Financial Institutions;Accountability,
Efficiency, Transparency
- 6 03/27 (S) DR - TSDP: BF To AC
- 7 03/29 (S) Title Suff Do Pass
- 8 04/04 (S) Passed *{Vote}*
- 9 04/05 (S) Transmitted To House
- 10 04/10 (S) Enrolled Bill Signed
- 11 04/10 (H) Enrolled Bill Signed
- 12 04/16 Approved by Governor

Code Section: RP 079-0011-0601, RP 079-0011-0603, RP 079-0011-0605, RP 079-0011-0607,
RP 079-0011-0609, RP 079-0011-0611, RP 079-0011-0613, RP 079-0011-0615, RP 079-0011-0617

----- Additional Information -----

House Committee: Judiciary A

Senate Committee: Business and Financial Institutions, Accountability, Efficiency, Transparency

Principal Author: Cockerham

2012 GENERAL LAWS OF MISSISSIPPI, HB 1104

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Cockerham

To: Judiciary A

HOUSE BILL NO. 1104

AN ACT TO CREATE THE UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT; TO ENACT A SHORT TITLE; TO CREATE DEFINITIONS; TO SET THE STANDARD OF CONDUCT IN MANAGING AND INVESTING INSTITUTIONAL FUNDS; TO ENACT DEFAULT RULES OF CONSTRUCTION; TO PROVIDE FOR THE DELEGATION OF MANAGEMENT AND INVESTMENT FUNCTIONS; TO PROVIDE FOR THE RELEASE OR MODIFICATION OF RESTRICTIONS ON MANAGEMENT, INVESTMENT OR PURPOSE; TO SPECIFY IN WHAT WAY COMPLIANCE WITH THE ACT WILL BE DETERMINED; TO MAKE TRANSITION PROVISIONS; TO PROVIDE FOR THE RELATIONSHIP OF THE ACT TO CERTAIN OTHER LAWS; TO PROVIDE FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION; TO REPEAL SECTIONS 79-11-601 THROUGH 79-11-617, MISSISSIPPI CODE OF 1972, WHICH CONSTITUTE THE UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Short title. This act may be cited as the Uniform Prudent Management of Institutional Funds Act.

SECTION 2. Definitions. In this act:

(a) "Charitable purpose" means either:

(i) Any purpose described in Section 501(c)(3) of the Internal Revenue Code; or

(ii) Any voluntary health and welfare, charitable, benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic, or other eleemosynary purpose.

(b) "Endowment fund" means an institutional fund or part thereof that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis. The term does not include assets that an institution designates as an endowment fund for its own use.

(c) "Gift instrument" means a record or records, including an institutional solicitation, under which property is

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granted to, transferred to, or held by an institution as an institutional fund.

(d) "Institution" means:

(i) A person, other than an individual, organized and operated exclusively for charitable purposes;

(ii) A government or governmental subdivision, agency, or instrumentality, to the extent that it holds funds exclusively for a charitable purpose;

(iii) A trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated; or

(iv) The term "institution" does not include any bank, trust company, or other regulated financial institution.

(e) "Institutional fund" means a fund held by an institution exclusively for charitable purposes. The term does not include:

(i) Program-related assets;

(ii) A fund held for an institution by a trustee that is not an institution; or

(iii) A fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund.

(f) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(g) "Program-related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.

(h) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

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SECTION 3. Standard of conduct in managing and investing institutional fund. (1) Subject to the intent of a donor expressed in a gift instrument, an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund.

(2) In addition to complying with the duty of loyalty imposed by law other than this act, each person responsible for managing and investing an institutional fund shall manage and invest the fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

(3) In managing and investing an institutional fund, an institution:

(a) May incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the institution, and the skills available to the institution; and

(b) Shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

(4) Subject to the intent of a donor expressed in a gift instrument, an institution may pool two (2) or more institutional funds for purposes of management and investment.

(5) Except as otherwise provided by a gift instrument, the following rules apply:

(a) In managing and investing an institutional fund, the following factors, if relevant, must be considered:

(i) General economic conditions;

(ii) The possible effect of inflation or deflation;

(iii) The expected tax consequences, if any, of investment decisions or strategies;

(iv) The role that each investment or course of action plays within the overall investment portfolio of the fund;

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(v) The expected total return from income and the appreciation of investments;

(vi) Other resources of the institution;

(vii) The needs of the institution and the fund to make distributions and to preserve capital; and

(viii) An asset's special relationship or special value, if any, to the charitable purposes of the institution.

(b) Management and investment decisions about an individual asset must be made not in isolation but rather in the context of the institutional fund's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution.

(c) Except as otherwise provided by law other than this act, an institution may invest in any kind of property or type of investment consistent with this section.

(d) An institution shall reasonably manage the risk of concentrated holdings of assets by diversifying the investments of the institutional fund or by using some other appropriate mechanism, except as provided as follows:

(i) The duty imposed by this subsection (5) shall not apply if the institution reasonably determines that, because of special circumstances, or because of the specific purposes, terms, distribution requirements, and other circumstances of the institutional fund, the purposes of such fund are better served without complying with the duty. For purposes of this subparagraph, special circumstances shall include an asset's special relationship or special value, if any, to the charitable purposes of the institution or to the donor;

(ii) No person responsible for managing and investing an institutional fund shall be liable for failing to comply with the duty imposed by this subsection (5) to the extent

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that the terms of the gift instrument or express written agreement between the donor and the institution limit or waive the duty; and

(iii) The governing board of an institution may retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable.

(e) Within a reasonable time after receiving property, an institution shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio, in order to bring the institutional fund into compliance with the purposes, terms, and distribution requirements of the institution as necessary to meet other circumstances of the institution and the requirements of this act.

(f) A person who has special skills or expertise, or is selected in reliance upon the person's representation that the person has special skills or expertise, has a duty to use those skills or that expertise in managing and investing institutional funds. This paragraph does not apply to a volunteer who is not compensated beyond reimbursement for expenses.

SECTION 4. Appropriation for expenditure or accumulation of endowment fund; rules of construction. (1) Subject to the intent of a donor expressed in the gift instrument or to any express written agreement between a donor and an institution, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes, and duration for which the endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors:

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- (a) The duration and preservation of the endowment fund;
- (b) The purposes of the institution and the endowment fund;
- (c) General economic conditions;
- (d) The possible effect of inflation or deflation;
- (e) The expected total return from income and the appreciation of investments;
- (f) Other resources of the institution; and
- (g) The investment policy of the institution.

(2) In order to limit the authority to appropriate for expenditure or accumulate under subsection (1) of this section, a gift instrument must specifically state the limitation.

(3) Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income," "interest," "dividends," or "rents, issues, or profits," or "to preserve the principal intact," or words of similar import:

(a) Create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and

(b) Do not otherwise limit the authority to appropriate for expenditure or accumulate under subsection (1) of this section.

SECTION 5. Delegation of management and investment

functions. (1) Except as otherwise provided in a gift instrument or by law other than this act, an institution may delegate to an external agent the management and investment of an institutional fund to the extent that an institution could prudently delegate under the circumstances. An institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, in:

- (a) Selecting an agent;

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(b) Establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund; and

(c) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

(2) In performing a delegated function, an agent owes a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation.

(3) Absent gross negligence, wantonness, recklessness, or deliberate misconduct, an institution that complies with subsection (1) of this section is not liable for the decisions or actions of an agent to which the function was delegated.

(4) By accepting delegation of a management or investment function from an institution that is subject to the laws of this state, an agent submits to the jurisdiction of the courts of this state in all proceedings arising from or related to the delegation or the performance of the delegated function.

(5) An institution may delegate management and investment functions to its committees, officers, or employees as otherwise authorized by law.

SECTION 6. Release or modification of restrictions on management, investment, or purpose. (1) If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.

(2) The court, upon application of an institution, may modify a restriction contained in a gift instrument regarding the management or investment of an institutional fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the fund, or if, because of

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circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. To the extent practicable, any modification must be made in accordance with the donor's probable intention.

(3) If a particular charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve, or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument.

(4) An application to the court under subsection (2) or (3) of this section shall be made in the name of the institution to the chancery court of the county in which the principal activities of the institution are conducted.

SECTION 7. Reviewing compliance. Compliance with this act is determined in light of the facts and circumstances existing at the time a decision is made or action is taken, and not by hindsight.

SECTION 8. Application to existing institutional funds. This act applies to institutional funds existing on or established after July 1, 2012. As applied to institutional funds existing on July 1, 2012, this act governs only decisions made or actions taken on or after that date.

SECTION 9. Relation to Electronic Signatures in Global and National Commerce Act. This act modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 USCS Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 USCS Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 USCS Section 7003(b).

SECTION 10. Uniformity of application and construction. In applying and construing this uniform act, consideration must be

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given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 11. Sections 79-11-601, 79-11-603, 79-11-605, 79-11-607, 79-11-609, 79-11-611, 79-11-613, 79-11-615 and 79-11-617, Mississippi Code of 1972, which constitute the Uniform Management of Institutional Funds Act, are repealed.

SECTION 12. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 1117

Description: Tax-forfeited lands; authorize Secretary of State to sell certain with deteriorating buildings and personal property located on.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Public Property
- 2 02/28 (H) Title Suff Do Pass
- 3 03/08 (H) Passed *Vote*
- 4 03/09 (H) Transmitted To Senate
- 5 03/16 (S) Referred To Public Property
- 6 03/29 (S) Title Suff Do Pass
- 7 04/04 (S) Passed *Vote*
- 8 04/05 (S) Transmitted To House
- 9 04/10 (S) Enrolled Bill Signed
- 10 04/10 (H) Enrolled Bill Signed
- 11 04/16 Approved by Governor

Code Section: A 029-0001-0035, A 029-0001-0057

----- Additional Information -----

House Committee: Public Property

Senate Committee: Public Property

Principal Author: Hines

Additional Authors: Miles, Myers

2012 GENERAL LAWS OF MISSISSIPPI, HB 1117

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Hines, Miles, Myers

To: Public Property

HOUSE BILL NO. 1117

AN ACT TO AMEND SECTIONS 29-1-35 AND 29-1-57, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE SECRETARY OF STATE TO SELL TAX-FORFEITED LANDS AND BUILDINGS AND PERSONAL PROPERTY ASSOCIATED WITH SUCH LANDS, WITH THE AUTHORITY TO DETERMINE THE REASONABLE PRICE FOR SALE, OR CONTRACT WITH THE PURCHASER OF THE PROPERTY FOR THE CLEANUP AND REMOVAL OF DEBRIS, BUILDINGS AND PERSONAL PROPERTY AS PARTIAL CONSIDERATION FOR THE SALE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 29-1-35, Mississippi Code of 1972, is amended as follows:

29-1-35. Where buildings and improvements situated on tax-forfeited lands have been removed or destroyed by fire, windstorm, or flood, the Secretary of State may, in his discretion, sell the tax-forfeited lands for any amount * * * he may deem reasonable, irrespective of the amount of taxes for which the property was sold to the state. The Secretary of State, in determining the sales price for the land, may take into account the cost of cleanup and removal of debris from destroyed buildings and improvements situated thereon, or may contract with the purchaser for cleanup and removal of debris from destroyed buildings as part of the consideration for sale of the land.

SECTION 2. Section 29-1-57, Mississippi Code of 1972, is amended as follows:

29-1-57. Where tax-forfeited lands have situated thereon buildings or personal property which are deteriorating, the Secretary of State may sell and dispose of the buildings, personal property and land for any consideration he may deem reasonable, irrespective of the amount of taxes for which same was sold. Where the buildings or personal property have deteriorated to the

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condition they are unsafe or constitute a nuisance, the Secretary of State, in determining the sales price for the land, may take into account the cost of cleanup and removal of the buildings and personal property situated thereon, or may contract with the purchaser for cleanup and removal of the buildings and personal property as part of the consideration for sale of the land.

SECTION 3. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 1144

Description: Office of Educator Misconduct Evaluations; establish to provide administrative due process for licensure violations.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Education
- 2 03/05 (H) Title Suff Do Pass
- 3 03/09 (H) Passed voice
- 4 03/12 (H) Transmitted To Senate
- 5 03/15 (S) Referred To Education; Appropriations
- 6 04/03 (S) DR - TSDP: ED To AP
- 7 04/03 (S) Title Suff Do Pass
- 8 04/04 (S) Passed voice
- 9 04/05 (S) Transmitted To House
- 10 04/11 (S) Enrolled Bill Signed
- 11 04/11 (H) Enrolled Bill Signed
- 12 04/17 Approved by Governor

Code Section: A 037-0003-0002

----- Additional Information -----

House Committee: Education

Senate Committee: Education, Appropriations

Principal Author: Moore

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Moore

To: Education

HOUSE BILL NO. 1144

AN ACT TO AMEND SECTION 37-3-2, MISSISSIPPI CODE OF 1972, TO ESTABLISH AN OFFICE WITHIN THE STATE DEPARTMENT OF EDUCATION TO RESPOND TO AND CONDUCT HEARINGS REGARDING EDUCATOR AND ADMINISTRATOR LICENSURE AND ETHICS VIOLATIONS; TO PROVIDE THAT APPROVAL OF EDUCATOR PREPARATION PROGRAMS IS SUBJECT TO A PROCESS AND SCHEDULE DETERMINED BY THE STATE BOARD OF EDUCATION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-3-2, Mississippi Code of 1972, is amended as follows:

37-3-2. (1) There is established within the State Department of Education the Commission on Teacher and Administrator Education, Certification and Licensure and Development. It shall be the purpose and duty of the commission to make recommendations to the State Board of Education regarding standards for the certification and licensure and continuing professional development of those who teach or perform tasks of an educational nature in the public schools of Mississippi.

(2) The commission shall be composed of fifteen (15) qualified members. The membership of the commission shall be composed of the following members to be appointed, three (3) from each congressional district: four (4) classroom teachers; three (3) school administrators; one (1) representative of schools of education of institutions of higher learning located within the state to be recommended by the Board of Trustees of State Institutions of Higher Learning; one (1) representative from the schools of education of independent institutions of higher learning to be recommended by the Board of the Mississippi Association of Independent Colleges; one (1) representative from

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public community and junior colleges located within the state to be recommended by the State Board for Community and Junior Colleges; one (1) local school board member; and four (4) laypersons. All appointments shall be made by the State Board of Education after consultation with the State Superintendent of Public Education. The first appointments by the State Board of Education shall be made as follows: five (5) members shall be appointed for a term of one (1) year; five (5) members shall be appointed for a term of two (2) years; and five (5) members shall be appointed for a term of three (3) years. Thereafter, all members shall be appointed for a term of four (4) years.

(3) The State Board of Education when making appointments shall designate a chairman. The commission shall meet at least once every two (2) months or more often if needed. Members of the commission shall be compensated at a rate of per diem as authorized by Section 25-3-69 and be reimbursed for actual and necessary expenses as authorized by Section 25-3-41.

(4) (a) An appropriate staff member of the State Department of Education shall be designated and assigned by the State Superintendent of Public Education to serve as executive secretary and coordinator for the commission. No less than two (2) other appropriate staff members of the State Department of Education shall be designated and assigned by the State Superintendent of Public Education to serve on the staff of the commission.

(b) An Office of Educator Misconduct Evaluations shall be established within the State Department of Education to assist the commission in responding to infractions and violations, and in conducting hearings and enforcing the provisions of Section 37-3-2(11), (12), (13), (14) and (15), Mississippi Code of 1972, and violations of the Mississippi Educator Code of Ethics.

(5) It shall be the duty of the commission to:

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(a) Set standards and criteria, subject to the approval of the State Board of Education, for all educator preparation programs in the state;

(b) Recommend to the State Board of Education each year approval or disapproval of each educator preparation program in the state, subject to a process and schedule determined by the State Board of Education;

(c) Establish, subject to the approval of the State Board of Education, standards for initial teacher certification and licensure in all fields;

(d) Establish, subject to the approval of the State Board of Education, standards for the renewal of teacher licenses in all fields;

(e) Review and evaluate objective measures of teacher performance, such as test scores, which may form part of the licensure process, and to make recommendations for their use;

(f) Review all existing requirements for certification and licensure;

(g) Consult with groups whose work may be affected by the commission's decisions;

(h) Prepare reports from time to time on current practices and issues in the general area of teacher education and certification and licensure;

(i) Hold hearings concerning standards for teachers' and administrators' education and certification and licensure with approval of the State Board of Education;

(j) Hire expert consultants with approval of the State Board of Education;

(k) Set up ad hoc committees to advise on specific areas; and

(l) Perform such other functions as may fall within their general charge and which may be delegated to them by the State Board of Education.

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(6) (a) **Standard License - Approved Program Route.** An educator entering the school system of Mississippi for the first time and meeting all requirements as established by the State Board of Education shall be granted a standard five-year license. Persons who possess two (2) years of classroom experience as an assistant teacher or who have taught for one (1) year in an accredited public or private school shall be allowed to fulfill student teaching requirements under the supervision of a qualified participating teacher approved by an accredited college of education. The local school district in which the assistant teacher is employed shall compensate such assistant teachers at the required salary level during the period of time such individual is completing student teaching requirements.

Applicants for a standard license shall submit to the department:

- (i) An application on a department form;
- (ii) An official transcript of completion of a teacher education program approved by the department or a nationally accredited program, subject to the following:
Licensure to teach in Mississippi prekindergarten through kindergarten classrooms shall require completion of a teacher education program or a bachelor of science degree with child development emphasis from a program accredited by the American Association of Family and Consumer Sciences (AAFCS) or by the National Association for Education of Young Children (NAEYC) or by the National Council for Accreditation of Teacher Education (NCATE). Licensure to teach in Mississippi kindergarten, for those applicants who have completed a teacher education program, and in Grade 1 through Grade 4 shall require the completion of an interdisciplinary program of studies. Licenses for Grades 4 through 8 shall require the completion of an interdisciplinary program of studies with two (2) or more areas of concentration. Licensure to teach in Mississippi Grades 7 through 12 shall require a major in an academic field other than education, or a

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combination of disciplines other than education. Students preparing to teach a subject shall complete a major in the respective subject discipline. All applicants for standard licensure shall demonstrate that such person's college preparation in those fields was in accordance with the standards set forth by the National Council for Accreditation of Teacher Education (NCATE) or the National Association of State Directors of Teacher Education and Certification (NASDTEC) or, for those applicants who have a bachelor of science degree with child development emphasis, the American Association of Family and Consumer Sciences (AAFCS);

(iii) A copy of test scores evidencing satisfactory completion of nationally administered examinations of achievement, such as the Educational Testing Service's teacher testing examinations; and

(iv) Any other document required by the State Board of Education.

(b) **Standard License - Nontraditional Teaching Route.** Beginning January 1, 2004, an individual who has a passing score on the Praxis I Basic Skills and Praxis II Specialty Area Test in the requested area of endorsement may apply for the Teach Mississippi Institute (TMI) program to teach students in Grades 7 through 12 if the individual meets the requirements of this paragraph (b). The State Board of Education shall adopt rules requiring that teacher preparation institutions which provide the Teach Mississippi Institute (TMI) program for the preparation of nontraditional teachers shall meet the standards and comply with the provisions of this paragraph.

(i) The Teach Mississippi Institute (TMI) shall include an intensive eight-week, nine-semester-hour summer program or a curriculum of study in which the student matriculates in the fall or spring semester, which shall include, but not be limited to, instruction in education, effective teaching strategies, classroom management, state curriculum requirements, planning and

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instruction, instructional methods and pedagogy, using test results to improve instruction, and a one (1) semester three-hour supervised internship to be completed while the teacher is employed as a full-time teacher intern in a local school district. The TMI shall be implemented on a pilot program basis, with courses to be offered at up to four (4) locations in the state, with one (1) TMI site to be located in each of the three (3) Mississippi Supreme Court districts.

(ii) The school sponsoring the teacher intern shall enter into a written agreement with the institution providing the Teach Mississippi Institute (TMI) program, under terms and conditions as agreed upon by the contracting parties, providing that the school district shall provide teacher interns seeking a nontraditional provisional teaching license with a one-year classroom teaching experience. The teacher intern shall successfully complete the one (1) semester three-hour intensive internship in the school district during the semester immediately following successful completion of the TMI and prior to the end of the one-year classroom teaching experience.

(iii) Upon completion of the nine-semester-hour TMI or the fall or spring semester option, the individual shall submit his transcript to the commission for provisional licensure of the intern teacher, and the intern teacher shall be issued a provisional teaching license by the commission, which will allow the individual to legally serve as a teacher while the person completes a nontraditional teacher preparation internship program.

(iv) During the semester of internship in the school district, the teacher preparation institution shall monitor the performance of the intern teacher. The school district that employs the provisional teacher shall supervise the provisional teacher during the teacher's intern year of employment under a nontraditional provisional license, and shall, in consultation with the teacher intern's mentor at the school district of

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employment, submit to the commission a comprehensive evaluation of the teacher's performance sixty (60) days prior to the expiration of the nontraditional provisional license. If the comprehensive evaluation establishes that the provisional teacher intern's performance fails to meet the standards of the approved nontraditional teacher preparation internship program, the individual shall not be approved for a standard license.

(v) An individual issued a provisional teaching license under this nontraditional route shall successfully complete, at a minimum, a one-year beginning teacher mentoring and induction program administered by the employing school district with the assistance of the State Department of Education.

(vi) Upon successful completion of the TMI and the internship provisional license period, applicants for a Standard License - Nontraditional Route shall submit to the commission a transcript of successful completion of the twelve (12) semester hours required in the internship program, and the employing school district shall submit to the commission a recommendation for standard licensure of the intern. If the school district recommends licensure, the applicant shall be issued a Standard License - Nontraditional Route which shall be valid for a five-year period and be renewable.

(vii) At the discretion of the teacher preparation institution, the individual shall be allowed to credit the twelve (12) semester hours earned in the nontraditional teacher internship program toward the graduate hours required for a Master of Arts in Teacher (MAT) Degree.

(viii) The local school district in which the nontraditional teacher intern or provisional licensee is employed shall compensate such teacher interns at Step 1 of the required salary level during the period of time such individual is completing teacher internship requirements and shall compensate

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such Standard License - Nontraditional Route teachers at Step 3 of the required salary level when they complete license requirements.

Implementation of the TMI program provided for under this paragraph (b) shall be contingent upon the availability of funds appropriated specifically for such purpose by the Legislature. Such implementation of the TMI program may not be deemed to prohibit the State Board of Education from developing and implementing additional alternative route teacher licensure programs, as deemed appropriate by the board. The emergency certification program in effect prior to July 1, 2002, shall remain in effect.

A Standard License - Approved Program Route shall be issued for a five-year period, and may be renewed. Recognizing teaching as a profession, a hiring preference shall be granted to persons holding a Standard License - Approved Program Route or Standard License - Nontraditional Teaching Route over persons holding any other license.

(c) **Special License - Expert Citizen.** In order to allow a school district to offer specialized or technical courses, the State Department of Education, in accordance with rules and regulations established by the State Board of Education, may grant a one-year expert citizen-teacher license to local business or other professional personnel to teach in a public school or nonpublic school accredited or approved by the state. Such person may begin teaching upon his employment by the local school board and licensure by the Mississippi Department of Education. The board shall adopt rules and regulations to administer the expert citizen-teacher license. A Special License - Expert Citizen may be renewed in accordance with the established rules and regulations of the State Department of Education.

(d) **Special License - Nonrenewable.** The State Board of Education is authorized to establish rules and regulations to allow those educators not meeting requirements in subsection

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(6) (a), (b) or (c) to be licensed for a period of not more than three (3) years, except by special approval of the State Board of Education.

(e) **Nonlicensed Teaching Personnel.** A nonlicensed person may teach for a maximum of three (3) periods per teaching day in a public school or a nonpublic school accredited/approved by the state. Such person shall submit to the department a transcript or record of his education and experience which substantiates his preparation for the subject to be taught and shall meet other qualifications specified by the commission and approved by the State Board of Education. In no case shall any local school board hire nonlicensed personnel as authorized under this paragraph in excess of five percent (5%) of the total number of licensed personnel in any single school.

(f) **Special License - Transitional Bilingual Education.** Beginning July 1, 2003, the commission shall grant special licenses to teachers of transitional bilingual education who possess such qualifications as are prescribed in this section. Teachers of transitional bilingual education shall be compensated by local school boards at not less than one (1) step on the regular salary schedule applicable to permanent teachers licensed under this section. The commission shall grant special licenses to teachers of transitional bilingual education who present the commission with satisfactory evidence that they (i) possess a speaking and reading ability in a language, other than English, in which bilingual education is offered and communicative skills in English; (ii) are in good health and sound moral character; (iii) possess a bachelor's degree or an associate's degree in teacher education from an accredited institution of higher education; (iv) meet such requirements as to courses of study, semester hours therein, experience and training as may be required by the commission; and (v) are legally present in the United States and possess legal authorization for employment. A teacher of

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transitional bilingual education serving under a special license shall be under an exemption from standard licensure if he achieves the requisite qualifications therefor. Two (2) years of service by a teacher of transitional bilingual education under such an exemption shall be credited to the teacher in acquiring a Standard Educator License. Nothing in this paragraph shall be deemed to prohibit a local school board from employing a teacher licensed in an appropriate field as approved by the State Department of Education to teach in a program in transitional bilingual education.

(g) In the event any school district meets the highest accreditation standards as defined by the State Board of Education in the accountability system, the State Board of Education, in its discretion, may exempt such school district from any restrictions in paragraph (e) relating to the employment of nonlicensed teaching personnel.

(h) **Highly Qualified Teachers.** Beginning July 1, 2006, any teacher from any state meeting the federal definition of highly qualified, as described in the No Child Left Behind Act, must be granted a standard five-year license by the State Department of Education.

(7) **Administrator License.** The State Board of Education is authorized to establish rules and regulations and to administer the licensure process of the school administrators in the State of Mississippi. There will be four (4) categories of administrator licensure with exceptions only through special approval of the State Board of Education.

(a) **Administrator License - Nonpracticing.** Those educators holding administrative endorsement but having no administrative experience or not serving in an administrative position on January 15, 1997.

(b) **Administrator License - Entry Level.** Those educators holding administrative endorsement and having met the

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department's qualifications to be eligible for employment in a Mississippi school district. Administrator License - Entry Level shall be issued for a five-year period and shall be nonrenewable.

(c) **Standard Administrator License - Career Level.** An administrator who has met all the requirements of the department for standard administrator licensure.

(d) **Administrator License - Nontraditional Route.** The board may establish a nontraditional route for licensing administrative personnel. Such nontraditional route for administrative licensure shall be available for persons holding, but not limited to, a master of business administration degree, a master of public administration degree, a master of public planning and policy degree or a doctor of jurisprudence degree from an accredited college or university, with five (5) years of administrative or supervisory experience. Successful completion of the requirements of alternate route licensure for administrators shall qualify the person for a standard administrator license.

Individuals seeking school administrator licensure under paragraph (b), (c) or (d) shall successfully complete a training program and an assessment process prescribed by the State Board of Education. All applicants for school administrator licensure shall meet all requirements prescribed by the department under paragraph (b), (c) or (d), and the cost of the assessment process required shall be paid by the applicant.

(8) **Reciprocity.** (a) The department shall grant a standard license to any individual who possesses a valid standard license from another state and meets minimum Mississippi license requirements or equivalent requirements as determined by the State Board of Education.

(b) The department shall grant a nonrenewable special license to any individual who possesses a credential which is less than a standard license or certification from another state. Such

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special license shall be valid for the current school year plus one (1) additional school year to expire on June 30 of the second year, not to exceed a total period of twenty-four (24) months, during which time the applicant shall be required to complete the requirements for a standard license in Mississippi.

(9) **Renewal and Reinstatement of Licenses.** The State Board of Education is authorized to establish rules and regulations for the renewal and reinstatement of educator and administrator licenses. Effective May 15, 1997, the valid standard license held by an educator shall be extended five (5) years beyond the expiration date of the license in order to afford the educator adequate time to fulfill new renewal requirements established pursuant to this subsection. An educator completing a master of education, educational specialist or doctor of education degree in May 1997 for the purpose of upgrading the educator's license to a higher class shall be given this extension of five (5) years plus five (5) additional years for completion of a higher degree.

(10) All controversies involving the issuance, revocation, suspension or any change whatsoever in the licensure of an educator required to hold a license shall be initially heard in a hearing de novo, by the commission or by a subcommittee established by the commission and composed of commission members for the purpose of holding hearings. Any complaint seeking the denial of issuance, revocation or suspension of a license shall be by sworn affidavit filed with the Commission of Teacher and Administrator Education, Certification and Licensure and Development. The decision thereon by the commission or its subcommittee shall be final, unless the aggrieved party shall appeal to the State Board of Education, within ten (10) days, of the decision of the committee or its subcommittee. An appeal to the State Board of Education shall be on the record previously made before the commission or its subcommittee unless otherwise provided by rules and regulations adopted by the board. The State

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Board of Education in its authority may reverse, or remand with instructions, the decision of the committee or its subcommittee. The decision of the State Board of Education shall be final.

(11) The State Board of Education, acting through the commission, may deny an application for any teacher or administrator license for one or more of the following:

(a) Lack of qualifications which are prescribed by law or regulations adopted by the State Board of Education;

(b) The applicant has a physical, emotional or mental disability that renders the applicant unfit to perform the duties authorized by the license, as certified by a licensed psychologist or psychiatrist;

(c) The applicant is actively addicted to or actively dependent on alcohol or other habit-forming drugs or is a habitual user of narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effect, at the time of application for a license;

(d) Revocation or suspension of an applicant's certificate or license by another state;

(e) Fraud or deceit committed by the applicant in securing or attempting to secure such certification and license;

(f) Failing or refusing to furnish reasonable evidence of identification;

(g) The applicant has been convicted, has pled guilty or entered a plea of nolo contendere to a felony, as defined by federal or state law; or

(h) The applicant has been convicted, has pled guilty or entered a plea of nolo contendere to a sex offense as defined by federal or state law.

(12) The State Board of Education, acting on the recommendation of the commission, may revoke or suspend any teacher or administrator license for specified periods of time for one or more of the following:

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(a) Breach of contract or abandonment of employment may result in the suspension of the license for one (1) school year as provided in Section 37-9-57;

(b) Obtaining a license by fraudulent means shall result in immediate suspension and continued suspension for one (1) year after correction is made;

(c) Suspension or revocation of a certificate or license by another state shall result in immediate suspension or revocation and shall continue until records in the prior state have been cleared;

(d) The license holder has been convicted, has pled guilty or entered a plea of nolo contendere to a felony, as defined by federal or state law;

(e) The license holder has been convicted, has pled guilty or entered a plea of nolo contendere to a sex offense, as defined by federal or state law;

(f) The license holder knowingly and willfully committing any of the acts affecting validity of mandatory uniform test results as provided in Section 37-16-4(1);

(g) The license holder has engaged in unethical conduct relating to an educator/student relationship as identified by the State Board of Education in its rules;

(h) The license holder has fondled a student as described in Section 97-5-23, or had any type of sexual involvement with a student as described in Section 97-3-95; or

(i) The license holder has failed to report sexual involvement of a school employee with a student as required by Section 97-5-24.

(13) (a) Dismissal or suspension of a licensed employee by a local school board pursuant to Section 37-9-59 may result in the suspension or revocation of a license for a length of time which shall be determined by the commission and based upon the severity of the offense.

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(b) Any offense committed or attempted in any other state shall result in the same penalty as if committed or attempted in this state.

(c) A person may voluntarily surrender a license. The surrender of such license may result in the commission recommending any of the above penalties without the necessity of a hearing. However, any such license which has voluntarily been surrendered by a licensed employee may only be reinstated by a majority vote of all members of the commission present at the meeting called for such purpose.

(14) A person whose license has been suspended on any grounds except criminal grounds may petition for reinstatement of the license after one (1) year from the date of suspension, or after one-half (1/2) of the suspended time has lapsed, whichever is greater. A license suspended or revoked on the criminal grounds may be reinstated upon petition to the commission filed after expiration of the sentence and parole or probationary period imposed upon conviction. A revoked, suspended or surrendered license may be reinstated upon satisfactory showing of evidence of rehabilitation. The commission shall require all who petition for reinstatement to furnish evidence satisfactory to the commission of good character, good mental, emotional and physical health and such other evidence as the commission may deem necessary to establish the petitioner's rehabilitation and fitness to perform the duties authorized by the license.

(15) Reporting procedures and hearing procedures for dealing with infractions under this section shall be promulgated by the commission, subject to the approval of the State Board of Education. The revocation or suspension of a license shall be effected at the time indicated on the notice of suspension or revocation. The commission shall immediately notify the superintendent of the school district or school board where the teacher or administrator is employed of any disciplinary action

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and also notify the teacher or administrator of such revocation or suspension and shall maintain records of action taken. The State Board of Education may reverse or remand with instructions any decision of the commission regarding a petition for reinstatement of a license, and any such decision of the State Board of Education shall be final.

(16) An appeal from the action of the State Board of Education in denying an application, revoking or suspending a license or otherwise disciplining any person under the provisions of this section shall be filed in the Chancery Court of the First Judicial District of Hinds County on the record made, including a verbatim transcript of the testimony at the hearing. The appeal shall be filed within thirty (30) days after notification of the action of the board is mailed or served and the proceedings in chancery court shall be conducted as other matters coming before the court. The appeal shall be perfected upon filing notice of the appeal and by the prepayment of all costs, including the cost of preparation of the record of the proceedings by the State Board of Education, and the filing of a bond in the sum of Two Hundred Dollars (\$200.00) conditioned that if the action of the board be affirmed by the chancery court, the applicant or license holder shall pay the costs of the appeal and the action of the chancery court.

(17) All such programs, rules, regulations, standards and criteria recommended or authorized by the commission shall become effective upon approval by the State Board of Education as designated by appropriate orders entered upon the minutes thereof.

(18) The granting of a license shall not be deemed a property right nor a guarantee of employment in any public school district. A license is a privilege indicating minimal eligibility for teaching in the public schools of Mississippi. This section shall in no way alter or abridge the authority of local school districts to require greater qualifications or standards of

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performance as a prerequisite of initial or continued employment in such districts.

(19) In addition to the reasons specified in subsections (12) and (13) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 1151

Description: Certification to practice orthotics or prosthetics; exempt pharmacists and pharmacies.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Public Health and Human Services
- 2 03/01 (H) Title Suff Do Pass Comm Sub
- 3 03/13 (H) Failed to Suspend Rules (Vote)
- 4 03/13 (H) Read the Third Time
- 5 03/14 (H) Committee Substitute Adopted
- 6 03/14 (H) Passed (Vote)
- 7 03/19 (H) Transmitted To Senate
- 8 03/22 (S) Referred To Public Health and Welfare
- 9 03/27 (S) Title Suff Do Pass
- 10 04/04 (S) Passed (Vote)
- 11 04/05 (S) Transmitted To House
- 12 04/10 (S) Enrolled Bill Signed
- 13 04/10 (H) Enrolled Bill Signed
- 14 04/16 Approved by Governor

Code Section: A 073-0022-0003, A 073-0022-0001

----- Additional Information -----

House Committee: Public Health and Human Services

Senate Committee: Public Health and Welfare

Principal Author: Hamilton

Additional Authors: Reynolds

2012 GENERAL LAWS OF MISSISSIPPI, HB 1151

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Hamilton, Reynolds

To: Public Health and Human
Services

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1151

AN ACT TO AMEND SECTION 73-22-3, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE ORTHOTIST/PROSTHETIST CERTIFICATION LAW DOES NOT PROHIBIT OR RESTRICT THE PRACTICE OF PHARMACY BY A LICENSED PHARMACIST AND DOES NOT PREVENT OR RESTRICT THE PRACTICE OF PROVIDING THERAPEUTIC DIABETIC SHOES AND INSERTS BY AN APPROPRIATELY TRAINED PHARMACIST; TO AMEND SECTION 73-22-1, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-22-3, Mississippi Code of 1972, is amended as follows:

73-22-3. (1) No person shall practice orthotics or prosthetics in the state unless he or she is certified as an orthotist, prosthetist, or both, by the American Board for Certification in Orthotics and Prosthetics or the Board for Orthotist/Prosthetist Certification. However, nothing in this chapter shall be construed to:

(a) Prevent any person licensed, registered or certified in this state from engaging in the profession or occupation for which he is licensed, registered or certified, as long as he does not represent himself as an orthotist or prosthetist * * *;

(b) Prevent any physician licensed in this state from performing any activities included within the definition of orthotics or prosthetics in the normal course of his practice as a physician, as long as he does not represent himself as an orthotist or prosthetist;

(c) Prevent the practice of orthotics or prosthetics by any person who has engaged in the practice of orthotics or

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prosthetics for a period of twenty-five (25) or more consecutive years before July 1, 1991, and is engaged in the practice of orthotics or prosthetics on July 1, 1991;

(d) Prohibit or restrict the practice of pharmacy by a licensed pharmacist under Section 73-21-71 et seq., or to prohibit or restrict the operation of a pharmacy or its employees and technicians; or

(e) Prevent or restrict the practice of providing therapeutic diabetic shoes and inserts by an appropriately trained pharmacist or any of the appropriately trained pharmacist's or appropriately trained pharmacy's employees acting under the supervision of a pharmacist.

(2) It is unlawful for any orthotist or prosthetist, or any person on behalf of an orthotist or prosthetist, to solicit the patronage of individual patients for the orthotist or prosthetist by direct contact with a potential customer outside of the place of business of the orthotist or prosthetist.

(3) Whenever any person employs or utilizes the services of an orthotist or prosthetist in connection with the person's business, the measuring, fitting, adjusting and approval of any orthotic or prosthetic device furnished to a patient shall be performed only under the direct supervision of a board certified orthotist, in the case of orthotic patients, or under the direct supervision of a board certified prosthetist, in the case of prosthetic patients. "Direct supervision" means involvement by the certified practitioner in each and every case.

(4) Any person violating any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Dollars (\$2,000.00), and may be imprisoned in the county jail for not more than six (6) months. In addition, any person sustaining damages as a result of a violation of any provision of this section may recover the amount of those damages,

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plus a civil penalty of Two Thousand Five Hundred Dollars (\$2,500.00) per incident, in any court of competent jurisdiction.

SECTION 2. Section 73-22-1, Mississippi Code of 1972, is amended as follows:

73-22-1. As used in this chapter:

(a) "Appropriately trained" means the satisfactory completion of a course of study that covers fitting and patient management of therapeutic diabetic shoes and inserts that is approved by the National Commission for Orthotic and Prosthetic Education (N.C.O.P.E.), or a course of study offered by a manufacturer.

(b) "Orthotic device" means a brace or support, but does not include fabric and elastic supports, corsets, arch supports, trusses, elastic hose, canes, crutches, cervical collars, dental appliances or other similar devices carried in stock and sold by drug stores, department stores, corset shops or surgical supply facilities.

(c) "Orthotics" means the science or practice of measuring, designing, constructing, assembling, fitting, adjusting or servicing orthotic devices for the support, correction or alleviation of musculoskeletal diseases, injuries, disabilities or deformities as permitted by prescriptions from a licensed doctor of medicine.

(d) "Orthotist" means a person who is certified by the American Board for Certification in Orthotics and Prosthetics or the Board for Orthotist/Prosthetist Certification as a certified orthotist.

(e) "Person" means any individual, corporation, partnership, association or other organization.

(f) "Prosthetic device" means any artificial device that is not surgically implanted and that is used to replace a missing limb, appendage or any other external human body part, including devices such as artificial limbs, hands, fingers, feet,

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toes, but excluding artificial eyes or appliances for the eyes, dental plates, and largely cosmetic devices such as wigs, artificial breasts, eyelashes, ears and noses or other devices which could not by their use have a significantly detrimental impact upon the musculoskeletal functions of the body.

(g) "Prosthetics" means the science or practice of measuring, designing, constructing, assembling, fitting, adjusting or servicing prosthetic devices as permitted by prescriptions from a licensed doctor of medicine.

(h) "Prosthetist" means a person who is certified by the American Board for Certification in Orthotics and Prosthetics or the Board for Orthotist/Prosthetist Certification as a certified prosthetist.

SECTION 3. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 1162

Description: Uniform laws; enact Model Registered Agents Act.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: January 1, 2013

History of Actions:

- 1 02/20 (H) Referred To Judiciary A
- 2 02/22 (H) Title Suff Do Pass
- 3 03/07 (H) Passed *(Vote)*
- 4 03/08 (H) Transmitted To Senate
- 5 03/15 (S) Referred To Judiciary, Division A
- 6 03/27 (S) Title Suff Do Pass
- 7 03/28 (S) Amended
- 8 03/28 (S) Passed As Amended *(Vote)*
- 9 03/29 (S) Returned For Concurrence
- 10 04/05 (H) Concurred in Amend From Senate *(Vote)*
- 11 04/11 (S) Enrolled Bill Signed
- 12 04/11 (H) Enrolled Bill Signed
- 13 04/17 Approved by Governor

Amendments:

  [S] Amendment No 1 **Adopted** *Vote*

  Amendment Report for House Bill No. 1162

Code Section: A 079-0004-0001.20, A 079-0004-0001.22, A 079-0004-0001.25, A 079-0004-0001.26, A 079-0004-0001.41, A 079-0004-0002.02, A 079-0004-0007.03, A 079-0004-0007.04, A 079-0004-0007.20, A 079-0004-0007.48, A 079-0004-0008.09, A 079-0004-0010.05, A 079-0004-0011.07, A 079-0004-0013.30, A 079-0004-0014.07, A 079-0004-0014.08, A 079-0004-0014.20, A 079-0004-0014.21, A 079-0004-0014.22, A 079-0004-0014.23, A 079-0004-0014.31, A 079-0004-0015.03, A 079-0004-0015.04, A 079-0004-0015.10, A 079-0004-0015.20, A 079-0004-0015.30, A 079-0004-0015.31, A 079-0004-0015.32, A 079-0004-0015.33, A 079-0004-0016.04, A 079-0004-0016.05, A 079-0004-0016.22, A 079-0011-0109, A 079-0011-0115, A 079-0011-0117, BF 079-

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0011-0131, A 079-0011-0137, A 079-0011-0201, A 079-0011-0213, A 079-0011-0289, A 079-0011-0299, A 079-0011-0327, A 079-0011-0345, A 079-0011-0347, A 079-0011-0349, A 079-0011-0351, A 079-0011-0353, A 079-0011-0355, A 079-0011-0357, A 079-0011-0367, A 079-0011-0369, A 079-0011-0381, A 079-0011-0383, A 079-0011-0385, A 079-0011-0389, A 079-0011-0391, A 079-0013-1001, A 079-0013-1102, A 079-0014-0104, A 079-0014-0201, A 079-0014-0202, A 079-0014-0207, A 079-0014-0902, A 079-0014-1104, A 079-0015-0109, A 079-0015-0129, A 079-0015-0131, A 079-0015-0135, A 079-0016-0011, A 079-0016-0027, A 079-0016-0029, A 079-0016-0033, A 079-0029-0201, A 079-0029-0209, A 079-0029-0211, A 079-0029-0231, A 079-0029-0803, A 079-0029-0819, A 079-0029-0823, A 079-0029-0825, A 079-0029-0827, A 079-0029-0913, A 079-0029-0923, A 079-0029-1003, A 079-0029-1023, A 079-0029-1025, A 079-0029-1203, RP 079-0004-0005.01, RP 079-0004-0005.02, RP 079-0004-0005.03, RP 079-0004-0005.04, RP 079-0004-0015.07, RP 079-0004-0015.08, RP 079-0004-0015.09, RP 079-0011-0163, RP 079-0011-0165, RP 079-0011-0167, RP 079-0011-0169, RP 079-0011-0375, RP 079-0011-0377, RP 079-0011-0379, RP 079-0015-0115, RP 079-0015-0117, RP 079-0015-0119, RP 079-0016-0017, RP 079-0016-0019, RP 079-0016-0021, RP 079-0029-0113, RP 079-0029-0125

----- Additional Information -----

House Committee: Judiciary A

Senate Committee: Judiciary, Division A

Principal Author: Cockerham

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Cockerham

To: Judiciary A

HOUSE BILL NO. 1162 (As Sent to Governor)

AN ACT TO CREATE THE MISSISSIPPI REGISTERED AGENTS ACT; TO CREATE NEW SECTION 79-35-1, MISSISSIPPI CODE OF 1972, TO ENACT A SHORT TITLE; TO CREATE NEW SECTION 79-35-2, MISSISSIPPI CODE OF 1972, TO ENACT DEFINITIONS; TO CREATE NEW SECTION 79-35-3, MISSISSIPPI CODE OF 1972, TO PRESCRIBE FEES AND ALLOW THE SECRETARY OF STATE TO REDUCE FEES FOR ELECTRONIC FILINGS UNDER THE ACT; TO CREATE NEW SECTION 79-35-4, MISSISSIPPI CODE OF 1972, TO PRESCRIBE STANDARDS FOR STREET AND MAILING ADDRESSES USED IN REGISTERING UNDER THE ACT; TO CREATE NEW SECTION 79-35-5, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE APPOINTMENT OF A REGISTERED AGENT; TO CREATE NEW SECTION 79-35-6, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR LISTING OF A COMMERCIAL REGISTERED AGENT; TO CREATE NEW SECTION 79-35-7, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE TERMINATION OF LISTING OF A COMMERCIAL REGISTERED AGENT; TO CREATE NEW SECTION 79-35-8, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A CHANGE IN REGISTERED AGENT; TO CREATE NEW SECTION 79-35-9, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A CHANGE OF NAME OR ADDRESS BY A NONCOMMERCIAL REGISTERED AGENT; TO CREATE NEW SECTION 79-35-10, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A CHANGE OF NAME, ADDRESS OR BUSINESS TYPE BY A COMMERCIAL REGISTERED AGENT; TO CREATE NEW SECTION 79-35-11, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE RESIGNATION OF A REGISTERED AGENT; TO CREATE NEW SECTION 79-35-12, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE APPOINTMENT OF AN AGENT BY A NONFILING OR NONQUALIFIED FOREIGN ENTITY; TO CREATE NEW SECTION 79-35-13, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR SERVICE OF PROCESS ON ENTITIES AND TO SPECIFY PROCEDURES WHEN SERVICE CANNOT BE HAD; TO CREATE NEW SECTION 79-35-14, MISSISSIPPI CODE OF 1972, TO SPECIFY THE DUTIES OF A REGISTERED AGENT; TO CREATE NEW SECTION 79-35-15, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE APPOINTMENT OF AN AGENT DOES NOT CONFER JURISDICTION OR DETERMINE VENUE; TO CREATE NEW SECTION 79-35-16, MISSISSIPPI CODE OF 1972, TO DIRECT UNIFORMITY WITH OTHER STATES IN THE CONSTRUCTION OF THE ACT; TO CREATE NEW SECTION 79-35-17, MISSISSIPPI CODE OF 1972, TO DEFINE THE RELATIONSHIP BETWEEN THIS ACT AND THE ELECTRONIC SIGNATURES ACT; TO CREATE NEW SECTION 79-35-18, MISSISSIPPI CODE OF 1972, TO ENACT A SAVINGS CLAUSE; TO CREATE NEW SECTION 79-35-19, MISSISSIPPI CODE OF 1972, TO PRESCRIBE PENALTIES FOR VIOLATION OF THE ACT; TO AMEND SECTIONS 79-4-1.20, 79-4-1.22, 79-4-1.25, 79-4-1.26, 79-4-1.41, 79-4-2.02, 79-4-7.03, 79-4-7.04, 79-4-7.20, 79-4-7.48, 79-4-8.09, 79-4-10.05, 79-4-11.07, 79-4-13.30, 79-4-14.07, 79-4-14.08, 79-4-14.20, 79-4-14.21, 79-4-14.22, 79-4-14.23, 79-4-14.31, 79-4-15.03, 79-4-15.04, 79-4-15.10, 79-4-15.20, 79-4-15.30, 79-4-15.31, 79-4-15.32, 79-4-15.33, 79-4-16.04, 79-4-16.05, 79-4-16.22, 79-11-109, 79-11-115, 79-11-117, 79-11-131, 79-11-137, 79-11-201, 79-11-213, 79-11-289, 79-11-299, 79-11-327, 79-11-345, 79-11-347,

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47 79-11-349, 79-11-351, 79-11-353, 79-11-355, 79-11-357, 79-11-367, 79-11-369, 79-11-381, 79-11-383, 79-11-385, 79-11-389, 79-11-391 AND 79-13-1001, MISSISSIPPI CODE OF 1972, TO CONFORM; TO REVISE THE LIMITED LIABILITY PARTNERSHIP ACT TO ALLOW ADMINISTRATIVE DISSOLUTION ON GROUNDS OF APPOINTMENT OF A NONCONSENTING AGENT; TO CREATE NEW SECTION 79-13-1003, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR ADMINISTRATIVE DISSOLUTION OF A LIMITED LIABILITY PARTNERSHIP; TO CREATE NEW SECTION 79-13-1004, MISSISSIPPI CODE OF 1972, TO ALLOW FOR A LIMITED LIABILITY PARTNERSHIP TO CORRECT DEFICIENCIES IN ORDER TO AVOID ADMINISTRATIVE DISSOLUTION; TO CREATE NEW SECTION 79-13-1005, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REINSTATEMENT OF A LIMITED LIABILITY PARTNERSHIP FOLLOWING ADMINISTRATIVE DISSOLUTION; TO CREATE NEW SECTION 79-13-1006, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR DENIAL OF REINSTATEMENT; TO AMEND SECTION 79-13-1102, MISSISSIPPI CODE OF 1972, TO CONFORM; TO REVISE THE FOREIGN LIMITED LIABILITY PARTNERSHIP ACT TO ALLOW ADMINISTRATIVE DISSOLUTION ON GROUNDS OF APPOINTMENT OF A NONCONSENTING AGENT; TO CREATE NEW SECTION 79-13-1106, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR NOTICE OF PENDING REVOCATION OF QUALIFICATION OF A FOREIGN LIMITED LIABILITY PARTNERSHIP; TO CREATE NEW SECTION 79-13-1107, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REVOCATION OF FOREIGN QUALIFICATION; TO CREATE NEW SECTION 79-13-1108, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REINSTATEMENT OF QUALIFICATION OF A FOREIGN LIMITED LIABILITY PARTNERSHIP; TO CREATE NEW SECTION 79-13-1109, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR DENIAL OF REINSTATEMENT OF A FOREIGN LIMITED LIABILITY PARTNERSHIP; TO AMEND SECTIONS 79-14-104, 79-14-201, 79-14-202 AND 79-14-207, MISSISSIPPI CODE OF 1972, TO CONFORM; TO CREATE NEW SECTION 79-14-809, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR ADMINISTRATIVE DISSOLUTION OF A LIMITED PARTNERSHIP; TO CREATE NEW SECTION 79-14-810, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR NOTICE OF PENDING ADMINISTRATIVE DISSOLUTION OF A LIMITED PARTNERSHIP; TO CREATE NEW SECTION 79-14-811, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REINSTATEMENT FOLLOWING ADMINISTRATION DISSOLUTION OF A LIMITED PARTNERSHIP; TO REVISE THE LIMITED PARTNERSHIP ACT TO ALLOW ADMINISTRATIVE DISSOLUTION ON GROUNDS OF APPOINTMENT OF A NONCONSENTING AGENT; TO CREATE NEW SECTION 79-14-812, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR NOTICE FOLLOWING DENIAL OF REINSTATEMENT; TO AMEND SECTION 79-14-902, MISSISSIPPI CODE OF 1972, TO CONFORM; TO REVISE THE FOREIGN LIMITED PARTNERSHIP ACT TO ALLOW ADMINISTRATIVE DISSOLUTION ON GROUNDS OF APPOINTMENT OF A NONCONSENTING AGENT; TO CREATE NEW SECTION 79-14-910, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REVOCATION OF REGISTRATION OF A FOREIGN LIMITED PARTNERSHIP; TO CREATE NEW SECTION 79-14-911, MISSISSIPPI CODE OF 1972, TO PROVIDE A PROCEDURE FOR REVOCATION OF REGISTRATION OF A FOREIGN LIMITED PARTNERSHIP; TO CREATE NEW SECTION 79-14-912, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REINSTATEMENT FOLLOWING REVOCATION OF REGISTRATION OF A FOREIGN LIMITED PARTNERSHIP; TO CREATE NEW SECTION 79-14-913, MISSISSIPPI CODE OF 1972, TO PROVIDE A PROCEDURE FOR DENIAL OF REINSTATEMENT; TO AMEND SECTIONS 79-14-1104, 79-15-109, 79-15-129, 79-15-131, 79-15-135, 79-16-11, 79-16-27, 79-16-29, 79-16-33, 79-29-201, 79-29-209, 79-29-211, 79-29-231, 79-29-803, 79-29-819, 79-29-823, 79-29-825, 79-29-827, 79-29-913, 79-29-923, 79-29-1003, 79-29-1023, 79-29-1025 AND 79-29-1203, MISSISSIPPI CODE OF 1972, TO CONFORM; TO REPEAL SECTIONS 79-4-5.01, 79-4-5.02, 79-4-5.03 AND 79-4-5.04, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR A REGISTERED AGENT

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MAINTAINING A REGISTERED OFFICE, FOR THE CHANGE OF THE REGISTERED OFFICE OF A REGISTERED AGENT, FOR THE RESIGNATION OF A REGISTERED AGENT, FOR SERVICE OF PROCESS ON A CORPORATION, AND WHICH COLLECTIVELY CONSTITUTE ARTICLE 5, OFFICE AND AGENT, OF THE MISSISSIPPI BUSINESS CORPORATION ACT; TO REPEAL SECTION 79-4-15.07, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE REGISTERED OFFICE OF A REGISTERED AGENT OF A FOREIGN CORPORATION; TO REPEAL SECTION 79-4-15.08, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE CHANGE OF AN OFFICER OR REGISTERED AGENT OF A FOREIGN CORPORATION; TO REPEAL SECTION 79-4-15.09, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE RESIGNATION OF A REGISTERED AGENT OF A FOREIGN CORPORATION; TO REPEAL SECTION 79-11-163, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THAT A NONPROFIT CORPORATION MAINTAIN A REGISTERED OFFICE AND REGISTERED AGENT WITHIN THE STATE; TO REPEAL SECTION 79-11-165, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT BY A NONPROFIT CORPORATION; TO REPEAL SECTION 79-11-167, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE RESIGNATION OF A NONPROFIT CORPORATION'S REGISTERED AGENT; TO REPEAL SECTION 79-11-169, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR SERVICE OF PROCESS UPON A NONPROFIT CORPORATION; TO REPEAL SECTION 79-11-375, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THAT A FOREIGN NONPROFIT CORPORATION MAINTAIN A REGISTERED OFFICE AND REGISTERED AGENT WITHIN THE STATE; TO REPEAL SECTION 79-11-377, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT BY A FOREIGN NONPROFIT CORPORATION; TO REPEAL SECTION 79-11-379, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE RESIGNATION OF A FOREIGN NONPROFIT CORPORATION'S REGISTERED AGENT; TO REPEAL SECTION 79-15-115, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THAT A FOREIGN INVESTMENT TRUST MAINTAIN A REGISTERED OFFICE AND REGISTERED AGENT WITHIN THE STATE; TO REPEAL SECTION 79-15-117, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A CHANGE OR RESIGNATION OF REGISTERED OFFICE OR REGISTERED AGENT BY A FOREIGN INVESTMENT TRUST; TO REPEAL SECTION 79-15-119, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR SERVICE OF PROCESS UPON A FOREIGN INVESTMENT TRUST; TO REPEAL SECTION 79-16-17, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THAT A FOREIGN BUSINESS TRUST MAINTAIN A REGISTERED OFFICE AND REGISTERED AGENT WITHIN THE STATE; TO REPEAL SECTION 79-16-19, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A CHANGE OR RESIGNATION OF REGISTERED OFFICE OR REGISTERED AGENT BY A FOREIGN BUSINESS TRUST; TO REPEAL SECTION 79-16-21, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR SERVICE OF PROCESS UPON A FOREIGN BUSINESS TRUST; TO REPEAL SECTION 79-29-113, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THAT A LIMITED LIABILITY COMPANY MAINTAIN A REGISTERED OFFICE AND REGISTERED AGENT WITHIN THE STATE; TO REPEAL SECTION 79-29-125, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR SERVICE OF PROCESS UPON A LIMITED LIABILITY COMPANY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following shall be codified as Section

79-35-1, Mississippi Code of 1972:

79-35-1. **Short title.** This chapter shall be known and may be cited as the Mississippi Registered Agents Act.

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SECTION 2. The following shall be codified as Section 79-35-2, Mississippi Code of 1972:

79-35-2. **Definitions.** As used in this chapter unless the context otherwise requires:

(1) "Appointment of agent" means a statement appointing an agent for service of process filed by a domestic entity that is not a filing entity or a nonqualified foreign entity under Section 79-35-12.

(2) "Commercial registered agent" means an individual or a domestic or foreign entity listed under Section 79-35-6.

(3) "Domestic entity" means an entity whose internal affairs are governed by the law of this state.

(4) "Entity" means a person that has a separate legal existence or has the power to acquire an interest in real property in its own name other than:

(A) An individual;

(B) A testamentary, inter vivos, or charitable trust, with the exception of a business trust, statutory trust, or similar trust;

(C) An association or relationship that is not a partnership by reason of Section 79-13-202(c) or a similar provision of the law of any other jurisdiction;

(D) A decedent's estate; or

(E) A public corporation, government or governmental subdivision, agency, or instrumentality, or quasi-governmental instrumentality.

(5) "Filing entity" means an entity that is created by the filing of a public organic document.

(6) "Foreign entity" means an entity other than a domestic entity.

(7) "Foreign qualification document" means an application for a certificate of authority or other foreign

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qualification filing with the Secretary of State by a foreign entity.

(8) "Governance interest" means the right under the organic law or organic rules of an entity, other than as a governor, agent, assignee, or proxy, to:

(A) Receive or demand access to information concerning, or the books and records of, the entity;

(B) Vote for the election of the governors of the entity; or

(C) Receive notice of or vote on any or all issues involving the internal affairs of the entity.

(9) "Governor" means a person by or under whose authority the powers of an entity are exercised and under whose direction the business and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.

(10) "Interest" means:

(A) A governance interest in an unincorporated entity;

(B) A transferable interest in an unincorporated entity; or

(C) A share or membership in a corporation.

(11) "Interest holder" means a direct holder of an interest.

(12) "Jurisdiction of organization," with respect to an entity, means the jurisdiction whose law includes the organic law of the entity.

(13) "Noncommercial registered agent" means a person that is not listed as a commercial registered agent under Section 79-35-6 and that is an individual or a domestic or foreign entity that serves in this state as the agent for service of process of an entity.

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(14) "Nonqualified foreign entity" means a foreign entity that is not authorized to transact business in this state pursuant to a filing with the Secretary of State.

(15) "Nonresident LLP statement" means:

(A) A statement of qualification of a domestic limited liability partnership that does not have an office in this state; or

(B) A statement of foreign qualification of a foreign limited liability partnership that does not have an office in this state.

(16) "Organic law" means the statutes, if any, other than this chapter, governing the internal affairs of an entity.

(17) "Organic rules" means the public organic document and private organic rules of an entity.

(18) "Person" means an individual, corporation, estate, trust, partnership, limited liability company, business or similar trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(19) "Private organic rules" mean the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all of its interest holders, and are not part of its public organic document, if any.

(20) "Public organic document" means the public record the filing of which creates an entity, and any amendment to or restatement of that record.

(21) "Qualified foreign entity" means a foreign entity that is authorized to transact business in this state pursuant to a filing with the Secretary of State.

(22) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

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(23) "Registered agent" means a commercial registered agent or a noncommercial registered agent.

(24) "Registered agent filing" means:

(A) The public organic document of a domestic filing entity;

(B) A nonresident LLP statement;

(C) A foreign qualification document; or

(D) An appointment of agent.

(25) "Represented entity" means:

(A) A domestic filing entity;

(B) A domestic or qualified foreign limited liability partnership that does not have an office in this state;

(C) A qualified foreign entity;

(D) A domestic entity that is not a filing entity for which an appointment of agent has been filed; or

(E) A nonqualified foreign entity for which an appointment of agent has been filed.

(26) "Sign" means, with present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic sound, symbol, or process.

(27) "Transferable interest" means the right under an entity's organic law to receive distributions from the entity.

(28) "Type," with respect to an entity, means a generic form of entity:

(A) Recognized at common law; or

(B) Organized under an organic law, whether or not some entities organized under that organic law are subject to provisions of that law that create different categories of the form of entity.

SECTION 3. The following shall be codified as Section 79-35-3, Mississippi Code of 1972:

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79-35-3. **Fees.** (a) The Secretary of State shall collect the following fees when a filing is made under this chapter:

Document	Fee
(1) Commercial registered agent listing statement.....	\$ 100.00
(2) Commercial registered agent termination statement.....	\$ 50.00
(3) Statement of change.....	\$ 10.00
per entity not to exceed.....	\$1,000.00
(4) (A) Statement of resignation.....	No fee
(B) Statement of nonacceptance.....	No fee
(5) Statement appointing an agent for service of process pursuant to Section 79-35-12.....	\$ 10.00

(b) The Secretary of State shall collect the following fees for copying and certifying a copy of any document filed under this chapter:

- (1) \$1.00 a page for copying; and
- (2) \$10.00 for a certificate.

(c) The Secretary of State shall collect a fee of Twenty-five Dollars (\$25.00) each time process is served on the Secretary of State under this chapter. The party to a proceeding causing service of process is entitled to recover the fee as costs if he prevails in the proceeding.

(d) The Secretary of State may collect a filing fee greater than the fee as prescribed by rule, not to exceed Twenty-five Dollars (\$25.00), if the form for such filings prescribed by the Secretary of State has not been used.

(e) The Secretary of State may promulgate rules to reduce the filing fees set forth in this section or provide for discounts of fees as set forth in this section to encourage online filing of documents or for other reasons as determined by the secretary.

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SECTION 4. The following shall be codified as Section 79-35-4, Mississippi Code of 1972:

79-35-4. **Addresses in filings.** Whenever a provision of this chapter other than Section 79-35-11(a)(4) requires that a filing state an address, the filing must state:

- (1) An actual street address in this state; and
- (2) A mailing address in this state, if different from the address under paragraph (1) of this section.

SECTION 5. The following shall be codified as Section 79-35-5, Mississippi Code of 1972:

79-35-5. **Appointment of registered agent.** (a) A registered agent filing must state:

- (1) The name of the represented entity's commercial registered agent; or
- (2) If the entity does not have a commercial registered agent, the name and address of the entity's noncommercial registered agent.

(b) The appointment of a registered agent pursuant to subsection (a)(1) or (a)(2) of this section is an affirmation by the represented entity that:

- (1) The entity has:
 - (A) Notified the agent of the appointment; and
 - (B) Provided the agent with a forwarding address as provided in Section 79-35-14; and

- (2) The agent has consented to serve as such.

(c) The Secretary of State shall make available in a record as soon as practicable a daily list of filings that contain the name of a registered agent. The list must:

- (1) Be available for at least fourteen (14) calendar days;
- (2) List in alphabetical order the names of the registered agents; and

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(3) State the type of filing and name of the represented entity making the filing.

SECTION 6. The following shall be codified as Section 79-35-6, Mississippi Code of 1972:

79-35-6. Listing of commercial registered agent. (a) An individual or a domestic or foreign entity may become listed as a commercial registered agent by filing with the Secretary of State a commercial registered agent listing statement signed by or on behalf of the person which states:

(1) The name of the individual or the name, type, and jurisdiction of organization of the entity; and

(2) The address of a place of business of the person in this state to which service of process and other notice and documents being served on or sent to entities represented by it may be delivered.

(b) A commercial registered agent listing statement may include the information regarding acceptance of service of process in a record by the commercial registered agent provided for in Section 79-35-13(d).

(c) If the name of a person filing a commercial registered agent listing statement is not distinguishable on the records of the Secretary of State from the name of another commercial registered agent listed under this section, the person must adopt a fictitious name that is distinguishable and use that name in its statement and when it does business in this state as a commercial registered agent.

(d) A commercial registered agent listing statement takes effect on filing.

(e) The commercial registered agent listing statement must be accompanied by a list in alphabetical order of the entities represented by the person. The Secretary of State shall note the filing of the commercial registered agent listing statement in the index of filings maintained by the Secretary of State for each

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listed entity. The statement has the effect of deleting the address of the registered agent from the registered agent filing of each of those entities.

SECTION 7. The following shall be codified as Section 79-35-7, Mississippi Code of 1972:

79-35-7. Termination of listing of commercial registered agent. (a) A commercial registered agent may terminate its listing as a commercial registered agent by filing with the Secretary of State a commercial registered agent termination statement signed by or on behalf of the agent which states:

(1) The name of the agent as currently listed under Section 79-35-6; and

(2) That the agent is no longer in the business of serving as a commercial registered agent in this state.

(b) A commercial registered agent termination statement takes effect on the thirty-first day after the day on which it is filed.

(c) The commercial registered agent shall promptly furnish each entity represented by it with notice in a record of the filing of the commercial registered agent termination statement.

(d) When a commercial registered agent termination statement takes effect, the registered agent ceases to be an agent for service of process on each entity formerly represented by it. Until an entity formerly represented by a terminated commercial registered agent appoints a new registered agent, service of process may be made on the entity as provided in Section 79-35-13.

(e) Termination of the listing of a commercial registered agent under this section does not affect any contractual rights a represented entity may have against the agent or that the agent may have against the entity.

SECTION 8. The following shall be codified as Section 79-35-8, Mississippi Code of 1972:

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79-35-8. **Change of registered agent by entity.** (a) A represented entity may change the information currently on file under Section 79-35-5(a) by filing with the Secretary of State a statement of change signed on behalf of the entity which states:

- (1) The name of the entity; and
- (2) The information that is to be in effect as a result of the filing of the statement of change.

(b) The interest holders or governors of a domestic entity need not approve the filing of:

- (1) A statement of change under this section; or
- (2) A similar filing changing the registered agent or registered office of the entity in any other jurisdiction.

(c) The appointment of a registered agent pursuant to subsection (a) of this section is an affirmation by the represented entity that the entity has notified the agent of the appointment and that the agent has consented to serve as such.

(d) A statement of change filed under this section takes effect on filing.

SECTION 9. The following shall be codified as Section 79-35-9, Mississippi Code of 1972:

79-35-9. **Change of name or address by noncommercial registered agent.** (a) If a noncommercial registered agent changes its name or its address as currently in effect with respect to a represented entity pursuant to Section 79-35-5(a), the agent shall file with the Secretary of State, with respect to each entity represented by the agent, a statement of change signed by or on behalf of the agent which states:

- (1) The name of the entity;
 - (2) The name and address of the agent as currently in effect with respect to the entity;
 - (3) If the name of the agent has changed, its new name;
- and

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(4) If the address of the agent has changed, the new address.

(b) A statement of change filed under this section takes effect on filing.

(c) A noncommercial registered agent shall promptly furnish the represented entity with notice in a record of the filing of a statement of change and the changes made by the filing.

SECTION 10. The following shall be codified as Section 79-35-10, Mississippi Code of 1972:

79-35-10. Change of name, address, or type of organization by commercial registered agent. (a) If a commercial registered

agent changes its name, its address as currently listed under Section 79-35-6(a), or its type or jurisdiction of organization, the agent shall file with the Secretary of State a statement of change signed by or on behalf of the agent which states:

(1) The name of the agent as currently listed under Section 79-35-6(a);

(2) If the name of the agent has changed, its new name;

(3) If the address of the agent has changed, the new address; and

(4) If the type or jurisdiction of organization of the agent has changed, the new type or jurisdiction of organization.

(b) The filing of a statement of change under subsection (a) of this section is effective to change the information regarding the commercial registered agent with respect to each entity represented by the agent.

(c) A statement of change filed under this section takes effect on filing.

(d) A commercial registered agent shall promptly furnish each entity represented by it with notice in a record of the filing of a statement of change relating to the name or address of the agent and the changes made by the filing.

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(e) If a commercial registered agent changes its address without filing a statement of change as required by this section, the Secretary of State may cancel the listing of the agent under Section 79-35-6. A cancellation under this subsection has the same effect as a termination under Section 79-35-7. Promptly after canceling the listing of an agent, the Secretary of State shall serve notice in a record in the manner provided in Section 79-35-13(b) or (c) on:

(1) Each entity represented by the agent, stating that the agent has ceased to be an agent for service of process on the entity and that, until the entity appoints a new registered agent, service of process may be made on the entity as provided in Section 79-35-13; and

(2) The agent, stating that the listing of the agent has been canceled under this section.

SECTION 11. The following shall be codified as Section 79-35-11, Mississippi Code of 1972:

79-35-11. **Resignation of registered agent.** (a) A registered agent may resign at any time with respect to a represented entity by filing with the Secretary of State a statement of resignation signed by or on behalf of the agent which states:

- (1) The name of the entity;
- (2) The name of the agent; and
- (3) That the agent resigns from serving as agent for service of process for the entity.

(b) (1) The statement of resignation shall include a certification of the registered agent that at least thirty (30) days prior to the filing of the statement of resignation written notice of the resignation of the registered agent was sent to each represented entity for which the registered agent is resigning as registered agent. This notice shall be addressed and delivered to the last known principal office of each represented entity

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identified in the statement. The agent shall indicate in the statement each name and address to which the notice was sent. After receipt of the notice of resignation of its registered agent, the represented entity for which the registered agent was acting shall obtain and designate a registered agent.

(2) For purposes of this subsection, the "last known principal office" of the represented entity shall be the address of the entity on file with the Secretary of State's office or the address most recently supplied to the agent by the entity, whichever is more current, or the actual principal office address if the actual address is known to the agent.

(c) A statement of resignation takes effect on the earlier of the thirty-first day after the day on which it is filed or the appointment of a new registered agent for the represented entity.

(d) When a statement of resignation takes effect, the registered agent ceases to have responsibility for any matter tendered to it as agent for the represented entity. A resignation under this section does not affect any contractual rights the entity has against the agent or that the agent has against the entity.

(e) A registered agent may resign with respect to a represented entity whether or not the entity is in good standing.

SECTION 12. The following shall be codified as Section 79-35-12, Mississippi Code of 1972:

79-35-12. Appointment of agent by nonfiling or nonqualified foreign entity. (a) A domestic entity that is not a filing entity or a nonqualified foreign entity may file with the Secretary of State a statement appointing an agent for service of process signed on behalf of the entity which states:

(1) The name, type, and jurisdiction of organization of the entity; and

(2) The information required by Section 79-35-5(a).

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(b) A statement appointing an agent for service of process takes effect on filing.

(c) The appointment of a registered agent under this section does not qualify a nonqualified foreign entity to do business in this state and is not sufficient alone to create personal jurisdiction over the nonqualified foreign entity in this state.

(d) A statement appointing an agent for service of process may not be rejected for filing because the name of the entity filing the statement is not distinguishable on the records of the Secretary of State from the name of another entity appearing in those records. The filing of a statement appointing an agent for service of process does not make the name of the entity filing the statement unavailable for use by another entity.

(e) An entity that has filed a statement appointing an agent for service of process may cancel the statement by filing a statement of cancellation, which shall take effect upon filing, and must state the name of the entity and that the entity is canceling its appointment of an agent for service of process in this state.

(f) A statement appointing an agent for service of process for a nonqualified foreign entity terminates automatically on the date the entity becomes a qualified foreign entity.

SECTION 13. The following shall be codified as Section 79-35-13, Mississippi Code of 1972:

79-35-13. Service of process on entities. (a) A registered agent is an agent of the represented entity authorized to receive service of any process, notice, or demand required or permitted by law to be served on the entity.

(b) If an entity that previously filed a registered agent filing with the Secretary of State no longer has a registered agent, or if its registered agent cannot with reasonable diligence be served, the governors of the entity will be treated as the entity's agent for service of process who may be served pursuant

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to the provisions of the Mississippi Rules of Civil Procedure. The names of the governors and the address of the principal office may be as shown in the most recent annual report filed with the Secretary of State. If the governors of the entity cannot with reasonable diligence be served, service of process against the entity shall be upon the Secretary of State in accordance with the Mississippi Rules of Civil Procedure.

(c) If notice or demand cannot be made on an entity pursuant to subsection (a) or (b) of this section, notice or demand may be made by handing a copy to the manager or other individual in charge of any regular place of business or activity of the entity.

(d) Notice or demand on a registered agent must be in the form of a written document, except that notice or demand may be made on a commercial registered agent in such other forms of a record, and subject to such requirements as the agent has stated from time to time in its listing under Section 79-35-6 that it will accept.

(e) Service of process, notice, or demand may be perfected by any other means prescribed by law other than this chapter, including provisions in the organic entity laws that provide for service of process on the Secretary of State in the event that registration of an organic entity has been canceled, withdrawn or revoked or the domestic organic entity has been administratively dissolved or voluntarily dissolved under the applicable organic entity statute.

SECTION 14. The following shall be codified as Section 79-35-14, Mississippi Code of 1972:

79-35-14. **Duties of registered agent.** (a) The only duties under this chapter of a registered agent that has complied with this chapter are:

(1) To forward to the represented entity at the address most recently supplied to the agent by the entity any process, notice, or demand that is served on the agent;

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(2) To provide the notices required by this chapter to the entity at the address most recently supplied to the agent by the entity;

(3) If the agent is a noncommercial registered agent, to keep current the information required by Section 79-35-5(a) in the most recent registered agent filing for the entity; and

(4) If the agent is a commercial registered agent, to keep current the information listed for it under Section 79-35-6(a).

(b) A person named as the registered agent for a represented entity in a registered agent filing pursuant to this chapter without the person's consent is not considered to be a "registered agent" of the entity for purposes of this chapter and therefore the person shall not have, and shall not be required to perform, the duties prescribed by this section with respect to the represented entity described in this subsection (b).

(1) In the event a person described in this subsection (b) is served with notice of service of process pursuant to Section 79-35-13(a), service on the person shall be deemed to be service on the entity that named the agent, even if the person does not forward the service to the entity.

(2) The person described in this subsection (b) shall have no responsibility to forward the service described in this subsection (b) to the entity, even if the person accepts the service by mistake; and the person further may not be held liable regardless of whether the person files a notice of nonacceptance with the Secretary of State:

(A) Under a judgment, decree, or order of a court, agency, or tribunal of any type, or in any other manner, in this or any other state, or on any other basis, for a debt, obligation, or liability of the represented entity, whether arising in contract, tort, or otherwise, solely because of the person's designation or appointment as registered agent; or

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(B) To the represented entity or to a person who reasonably relied on the unauthorized designation or appointment solely because of the person's failure or refusal to perform the duties of a registered agent under this section.

(3) A person described in subsection (b) of this section may file a notice of nonacceptance with the Secretary of State's office for the purpose of removing the person's name from the records of the Secretary of State that relate to the entity described in subsection (b) of this section.

Upon the filing of the notice of nonacceptance, the Secretary of State shall notify the entity in writing of the nonacceptance. After receipt of the notice from the Secretary of State, the entity shall obtain and designate a registered agent.

SECTION 15. The following shall be codified as Section 79-35-15, Mississippi Code of 1972:

79-35-15. **Jurisdiction and venue.** The appointment or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state. The address of the agent does not determine venue in an action or proceeding involving the entity.

SECTION 16. The following shall be codified as Section 79-35-16, Mississippi Code of 1972:

79-35-16. **Consistency of application.** In applying and construing this chapter, consideration must be given to the need to promote consistency of the law with respect to its subject matter among states that enact it.

SECTION 17. The following shall be codified as Section 79-35-17, Mississippi Code of 1972:

79-35-17. **Relation to Electronic Signatures in Global and National Commerce Act.** This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 USCS Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 USCS

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Section 7001(c), or authorize delivery of any of the notices described in Section 103(b) of that act, 15 USCS Section 7003(b).

SECTION 18. The following shall be codified as Section 79-35-18, Mississippi Code of 1972:

79-35-18. **Savings clause.** This chapter does not affect an action or proceeding commenced or right accrued before the effective date of this chapter.

SECTION 19. The following shall be codified as Section 79-35-19, Mississippi Code of 1972:

79-35-19. **Designation of registered agent without consent; penalties and liabilities.** In addition to other penalties, a person commits an offense if the person makes a false statement in a registered agent filing that names a person the registered agent of a represented entity without the person's written consent. The following penalties and liabilities shall apply with respect to a false statement in a registered agent filing made under this chapter that names a person the registered agent of a represented entity without the person's consent:

(1) Section 79-4-1.29 (Domestic Corporations); Section 79-4-15.30 (Foreign Corporations); Section 79-11-123 (Domestic Nonprofit Corporations); Section 79-11-385 (Foreign Nonprofit Corporations); Section 79-29-207 (Domestic Limited Liability Companies); Section 79-29-1019 (Foreign Limited Liability Companies); Section 79-13-1003 (Limited Liability Partnerships); Section 79-13-1106 (Foreign Limited Liability Partnerships); Section 79-14-207 (Domestic Limited Partnerships); Section 79-15-129 (Foreign Investment Trusts); and Section 79-16-27 (Foreign Business Trusts).

(2) The Secretary of State may commence a proceeding to administratively dissolve the domestic entity or to revoke the foreign entity's certificate of authority or similar certificate as prescribed by Section 79-4-14.20 (Corporations); Section 79-4-15.30 (Foreign Corporations); Section 79-11-347 (Nonprofit

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Corporations); Section 79-11-385 (Foreign Nonprofit Corporations); Section 79-13-1003 (Limited Liability Partnerships); Section 79-13-1106 (Foreign Limited Liability Partnerships); Section 79-29-809 (Limited Liability Companies); Section 79-29-1011 (Foreign Limited Liability Companies); Section 79-14-809 (Limited Partnerships); Section 79-14-910 (Foreign Limited Partnerships); Section 79-15-129 (Foreign Investment Trusts); and Section 79-16-27 (Foreign Business Trusts). Any entity that is administratively dissolved or whose certificate of authority is revoked pursuant to this paragraph shall not be reinstated unless it complies with the applicable statutory reinstatement requirements and unless it provides to the Secretary of State with its application for reinstatement a statement of appointment of registered agent signed by its appointed registered agent and an additional reinstatement fee of Two Hundred Fifty Dollars (\$250.00), in addition to the applicable statutory reinstatement fee.

SECTION 20. Section 79-4-1.20, Mississippi Code of 1972, is amended as follows:

79-4-1.20. (a) A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the Secretary of State.

(b) Section 79-4-1.01 et seq. must require or permit filing the document in the Office of the Secretary of State.

(c) The document must contain the information required by Section 79-4-1.01 et seq. It may contain other information as well.

(d) The document must be typewritten or printed, or, if electronically transmitted, it must be in a format that can be retrieved or reproduced by the Secretary of State in typewritten or printed form.

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(e) The document must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

(f) The document must be executed:

(1) By the chairman of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(2) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(3) If the corporation is in the hands of a receiver, trustee or other court-appointed fiduciary, by that fiduciary.

(g) The person executing the document shall sign it and state beneath or opposite his signature his name and the capacity in which he signs. The document may but need not contain a corporate seal, an attestation, acknowledgment or verification. A document required or permitted to be filed under this chapter which contains a copy of a signature, however made, is acceptable for filing.

(h) If the Secretary of State has prescribed a mandatory form for the document under Section 79-4-1.21, the document must be in or on the prescribed form.

(i) The document must be delivered to the Office of the Secretary of State for filing. Delivery may be made by electronic transmission if, to the extent and in the manner permitted by the Secretary of State. If it is filed in typewritten or printed form and not transmitted electronically, the Secretary of State may require one (1) exact or conformed copy to be delivered with the document * * *.

(j) When the document is delivered to the Office of the Secretary of State for filing, the correct filing fee, and any franchise tax, license fee, or penalty required to be paid

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therewith by this section or any other law must be paid or provision for payment made in a manner permitted by the Secretary of State.

(k) Whenever a provision of this chapter permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, the following provisions apply:

(1) The manner in which the facts will operate upon the terms of the plan or filed document shall be set forth in the plan or filed document.

(2) The facts may include, but are not limited to:

(i) Any of the following that is available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data;

(ii) A determination or action by any person or body, including the corporation or any other party to a plan or filed document; or

(iii) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

(3) As used in this subsection:

(i) "Filed document" means a document filed with the Secretary of State under any provision of this chapter except Article 15 or Section 79-4-16.21; and

(ii) "Plan" means a plan of domestication, nonprofit conversion, entity conversion, merger or share exchange.

(4) The following provisions of a plan or filed document may not be made dependent on facts outside the plan or filed document:

(i) The name and address of any person required in a filed document.

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(ii) [Reserved]

(iii) The registered agent of any entity required in a filed document.

(iv) The number of authorized shares and designation of each class or series of shares.

(v) The effective date of a filed document.

(vi) Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

(5) If a provision of a filed document is made dependent on a fact ascertainable outside of the filed document, and that fact is not ascertainable by reference to a source described in subsection (k)(2)(i) or a document that is a matter of public record, or the affected shareholders have not received notice of the fact from the corporation, then the corporation shall file with the Secretary of State articles of amendment setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this subsection (k)(5) are deemed to be authorized by the authorization of the original filed document or plan to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

SECTION 21. Section 79-4-1.22, Mississippi Code of 1972, is amended as follows:

79-4-1.22. (a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to him for filing:

Document	Fee
(1) Articles of incorporation.....	\$ 50.00
(2) Application for use of indistinguishable name.....	25.00
(3) Application for reserved name.....	25.00

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(4)	Notice of transfer of reserved name.....	25.00
(5)	Application for registered name.....	50.00
(6)	Application for renewal of registered name.....	50.00
(7)	<u>[Reserved]</u>	
(8)	<u>[Reserved]</u>	
(9)	<u>[Reserved]</u>	
(10)	Amendment of articles of Incorporation...	50.00
(11)	Restatement of articles of incorporation.....	50.00
	with amendment of articles.....	50.00
(12)	Articles of merger or share exchange.....	50.00
(13)	Articles of dissolution.....	25.00
(14)	Articles of revocation of dissolution....	25.00
(15)	Certificate of administrative dissolution.....	No fee
(16)	Application for reinstatement following administrative dissolution.....	50.00
(17)	Certificate of reinstatement.....	No fee
(18)	Certificate of judicial dissolution.....	No fee
(19)	Application for certificate of authority.....	500.00
(20)	Application for amended certificate of authority.....	50.00
(21)	Application for certificate of withdrawal.....	25.00
(22)	Certificate of revocation of authority to transact business.....	No fee
(23)	Application for reinstatement following administrative revocation.....	100.00
(24)	Certificate of reinstatement.....	No fee
(25)	Annual report.....	25.00
(26)	Articles of correction.....	50.00

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(27) Application for certificate of existence
or authorization..... 25.00

(28) Any other document required or permitted
to be filed by Section 79-4-1.01 et seq..... 25.00

(b) The Secretary of State shall collect a fee of
Twenty-five Dollars (\$25.00) each time process is served on him
under Section 79-4-1.01 et seq. The party to a proceeding causing
service of process is entitled to recover this fee as costs if he
prevails in the proceeding.

(c) The Secretary of State shall collect the following fees
for copying and certifying the copy of any filed document relating
to a domestic or foreign corporation:

(1) One Dollar (\$1.00) a page for copying; and

(2) Ten Dollars (\$10.00) for the certificate.

(d) The Secretary of State may collect a filing fee greater
than the fee set out herein, not to exceed the actual costs of
processing the filing, if the form for filing as prescribed by the
Secretary of State has not been used.

(e) The Secretary of State may promulgate rules to:

(1) Reduce the filing fees prescribed in this section
or provide for discounts of fees to encourage online filing of
documents or for other reasons as determined by the Secretary of
State; and

(2) Provide for documents to be filed and accepted on
an expedited basis upon the request of the applicant. The
Secretary of State may promulgate rules to provide for an
additional reasonable filing fee not to exceed Twenty-five Dollars
(\$25.00) to be paid by the applicant and collected by the
Secretary of State for the expedited filing services.

SECTION 22. Section 79-4-1.25, Mississippi Code of 1972, is
amended as follows:

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79-4-1.25. (a) If a document delivered to the office of the Secretary of State for filing satisfies the requirements of Section 79-4-1.20, the Secretary of State shall file it.

(b) The Secretary of State files a document by recording it as filed on the date and time of receipt. After filing a document, * * * the Secretary of State shall deliver to the domestic or foreign corporation or its representative a copy of the document with an acknowledgment of the date and time of filing.

(c) If the Secretary of State refuses to file a document, he shall return it to the domestic or foreign corporation or its representative within five (5) days after the document was delivered, together with a brief, written explanation of the reason for his refusal.

(d) The Secretary of State's duty to file documents under this section is ministerial. His filing or refusing to file a document does not:

(1) Affect the validity or invalidity of the document in whole or part;

(2) Relate to the correctness or incorrectness of information contained in the document;

(3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

SECTION 23. Section 79-4-1.26, Mississippi Code of 1972, is amended as follows:

79-4-1.26. (a) If the Secretary of State refuses to file a document delivered to his office for filing, the domestic or foreign corporation may appeal the refusal to the chancery court of the county where the corporation's principal office * * * is or will be located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state. The appeal is commenced by

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petitioning the court to compel filing the document and by attaching to the petition the document and the Secretary of State's explanation of his refusal to file.

(b) The court may summarily order the Secretary of State to file the document or take other action the court considers appropriate.

(c) The court's final decision may be appealed as in other civil proceedings.

SECTION 24. Section 79-4-1.41, Mississippi Code of 1972, is amended as follows:

79-4-1.41. (a) Notice under Section 79-4-1.01 et seq. shall be in writing unless oral notice is reasonable under the circumstances. Notice by electronic transmission is written notice.

(b) Notice may be communicated in person; by mail or other method of delivery; or by telephone, voice mail or other electronic means. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published, or by radio, television or other form of public broadcast communication.

(c) Written notice by a domestic or foreign corporation to its shareholder, if in a comprehensible form, is effective (i) upon deposit in the United States mail, if mailed postpaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders, or (ii) when electronically transmitted to the shareholder in a manner authorized by the shareholder.

(d) Written notice to a domestic or foreign corporation (authorized to transact business in this state) may be addressed to its registered agent * * * or to the secretary of the corporation at its principal office shown in its most recent annual report or, in the case of a foreign corporation that has

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not yet delivered an annual report, in its application for a certificate of authority.

(e) Except as provided in subsection (c), written notice, if in a comprehensible form, is effective at the earliest of the following:

(1) When received;

(2) Five (5) days after its deposit in the United States mail, if mailed postpaid and correctly addressed;

(3) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(f) Oral notice is effective when communicated if communicated in a comprehensible manner.

(g) If Section 79-4-1.01 et seq. prescribes notice requirements for particular circumstances, those requirements govern. If articles of incorporation, or bylaws prescribe notice requirements, not inconsistent with this section or other provisions of Section 79-4-1.01 et seq., those requirements govern.

SECTION 25. Section 79-4-2.02, Mississippi Code of 1972, is amended as follows:

79-4-2.02. (a) The articles of incorporation must set forth:

(1) A corporate name for the corporation that satisfies the requirements of Section 79-4-4.01;

(2) The number of shares the corporation is authorized to issue and any information concerning the authorized shares as required by Section 79-4-6.01;

(3) The information required by Section 79-35-5(a); and

(4) The name and address of each incorporator.

(b) The articles of incorporation may set forth:

(1) The names and addresses of the individuals who are to serve as the initial directors;

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(2) Provisions not inconsistent with law regarding:

- (i) The purpose or purposes for which the corporation is organized;
- (ii) Managing the business and regulating the affairs of the corporation;
- (iii) Defining, limiting and regulating the powers of the corporation, its board of directors and shareholders; and
- (iv) A par value for authorized shares or classes of shares;

(3) Any provision that under Section 79-4-1.01 et seq. is required or permitted to be set forth in the bylaws;

(4) A provision eliminating or limiting the liability of a director to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director, except liability for:

- (i) The amount of a financial benefit received by a director to which he is not entitled;
- (ii) An intentional infliction of harm on the corporation or the shareholders;
- (iii) A violation of Section 79-4-8.33; or
- (iv) An intentional violation of criminal law; and

(5) A provision permitting or making obligatory indemnification of a director for liability as defined in Section 79-4-8.50(5) to any person for any action taken, or any failure to take any action, as a director, except liability for:

- (i) Receipt of a financial benefit to which he is not entitled;
- (ii) An intentional infliction of harm on the corporation or its shareholders;
- (iii) A violation of Section 79-4-8.33; or
- (iv) An intentional violation of criminal law.

(c) The articles of incorporation need not set forth any of the corporate powers enumerated in Section 79-4-1.01 et seq.

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(d) For the purposes of this section, a "director" shall include any person vested with the discretion or powers of a director under Section 79-4-7.32.

(e) Provisions of the articles of incorporation may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with Section 79-4-1.20(k).

SECTION 26. Section 79-4-7.03, Mississippi Code of 1972, is amended as follows:

79-4-7.03. (a) The chancery court of the county where a corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may summarily order a meeting to be held:

(1) On application of any shareholder of the corporation entitled to participate in an annual meeting if an annual meeting was not held or action by written consent in lieu thereof did not become effective within the earlier of six (6) months after the end of the corporation's fiscal year or fifteen (15) months after its last annual meeting or written consent in lieu thereof; or

(2) On application of a shareholder who signed a demand for a special meeting valid under Section 79-4-7.02 if:

(i) Notice of the special meeting was not given within thirty (30) days after the date the demand was delivered to the corporation's secretary; or

(ii) The special meeting was not held in accordance with the notice.

(b) The court may fix the time and place of the meeting, determine the shares entitled to participate in the meeting, specify a record date for determining shareholders entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting (or direct that

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the votes represented at the meeting constitute a quorum for action on those matters), and enter other orders necessary to accomplish the purpose or purposes of the meeting.

SECTION 27. Section 79-4-7.04, Mississippi Code of 1972, is amended as follows:

79-4-7.04. (a) Action required or permitted by Section 79-4-1.01 et seq. to be taken at a shareholders' meeting may be taken without a meeting if the action is taken by all the shareholders entitled to vote on the action. The action must be evidenced by one or more written consents describing the action taken, signed by all the shareholders entitled to vote on the action and delivered to the corporation for inclusion in the minutes or filing with the corporate records. A unanimous consent signed under this subsection is the act of the shareholders when consents signed by all shareholders have been delivered to the corporation.

(b) The articles of incorporation may provide that any action required or permitted by Section 79-4-1.01 et seq. to be taken at a shareholder's meeting may be taken without a meeting and without prior notice, if consents in writing setting forth the action so taken are signed by the holders of outstanding shares having not less than the minimum number of votes that would be required to authorize or take the action at a meeting at which all shares entitled to vote on the action were present and voted. The written consent shall bear the date of signature of the shareholder who signs the consent and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(c) If not otherwise fixed under Section 79-4-7.03 or 79-4-7.07, and if prior board action is not required respecting the action to be taken without a meeting, the record date for determining the shareholders entitled to take action without a meeting shall be the first date on which a signed written consent

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is delivered to the corporation. If not otherwise fixed under Section 79-4-7.03 or 79-4-7.07, and if prior board action is required respecting the action to be taken without a meeting, the record date shall be the close of business on the day the resolution of the board taking such prior action is adopted. No written consent shall be effective to take the corporate action referred to therein unless, within sixty (60) days of the earliest date on which a consent delivered to the corporation as required by this section was signed, written consents signed by the holders of shares having sufficient votes to take the action have been delivered to the corporation. A written consent may be revoked by a writing to that effect delivered to the corporation before unrevoked written consents sufficient in number to take the corporation action are delivered to the corporation.

(d) A consent signed pursuant to the provisions of this section has the effect of a vote taken at a meeting and may be described as such in any document. Unless the articles of incorporation, bylaws, or a resolution of the board of directors provides for a reasonable delay to permit tabulation of written consents, the action taken by less than unanimous written consent shall be effective when written consents signed by the holders of shares having sufficient votes to take the action are delivered to the corporation.

(e) If Section 79-4-1.01 et seq. requires that notice of a proposed action be given to nonvoting shareholders and the action is to be taken by written consent of the voting shareholders, the corporation must give its nonvoting shareholders written notice of the action not more than ten (10) days after (i) written consents sufficient to take the action have been delivered to the corporation, or (ii) such later date that tabulation of consents is completed pursuant to an authorization under subsection (d). The notice must reasonably describe the action taken and contain or be accompanied by the same material that, under Section

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79-4-1.01 et seq., would have been required to be sent to nonvoting shareholders in a notice of a meeting at which the proposed action would have been submitted to the shareholders for action.

(f) If action is taken by less than unanimous written consent of the voting shareholders, the corporation must give its nonconsenting voting shareholders written notice of the action not more than ten (10) days after (i) written consents sufficient to take the action have been delivered to the corporation, or (ii) such later date that tabulation of consents is completed pursuant to an authorization under subsection (d). The notice must reasonably describe the action taken and contain or be accompanied by the same material that, under Section 79-4-1.01 et seq., would have been required to be sent to voting shareholders in a notice of a meeting at which the action would have been submitted to the shareholders for action.

(g) The notice requirements in subsections (e) and (f) shall not delay the effectiveness of actions taken by written consent, and a failure to comply with such notice requirements shall not invalidate actions taken by written consent, provided that this subsection shall not be deemed to limit judicial power to fashion any appropriate remedy in favor of a shareholder adversely affected by a failure to give such notice within the required time period.

(h) An electronic transmission may be used to consent to an action, if the electronic transmission contains or is accompanied by information from which the corporation can determine the date on which the electronic transmission was signed and that the electronic transmission was authorized by the shareholder, the shareholder's agent, or the shareholder's attorney-in-fact.

(i) Delivery of a written consent to the corporation under this section is delivery to the corporation's registered

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agent * * * or to the secretary of the corporation at its principal office.

SECTION 28. Section 79-4-7.20, Mississippi Code of 1972, is amended as follows:

79-4-7.20. (a) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. The list must be arranged by voting group (and within each voting group by class or series of shares) and show the address of and number of shares held by each shareholder.

(b) The shareholders' list must be available for inspection by any shareholder beginning two (2) business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A shareholder, his agent or attorney is entitled on written demand to inspect and, subject to the requirements of Section 79-4-16.02(c), to copy the list during regular business hours and at his expense, during the period it is available for inspection.

(c) The corporation shall make the shareholders' list available at the meeting, and any shareholder, his agent or attorney is entitled to inspect the list at any time during the meeting or any adjournment.

(d) If the corporation refuses to allow a shareholder, his agent or attorney to inspect the shareholders' list before or at the meeting (or copy the list as permitted by subsection (b)), the chancery court of the county where a corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, on application of the shareholder, may summarily order the inspection or copying at

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the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

(e) Refusal or failure to prepare or make available the shareholders' list does not affect the validity of action taken at the meeting.

SECTION 29. Section 79-4-7.48, Mississippi Code of 1972, is amended as follows:

79-4-7.48. (a) The chancery court of the county where a corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may appoint one or more persons to be custodians, or, if the corporation is insolvent, to be receivers, of and for a corporation in a proceeding by a shareholder where it is established that:

(1) The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered; or

(2) The directors or those in control of the corporation are acting fraudulently and irreparable injury to the corporation is threatened or being suffered.

(b) The court:

(1) May issue injunctions, appoint a temporary custodian or temporary receiver with all the powers and duties the court directs, take other action to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing is held;

(2) Shall hold a full hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a custodian or receiver; and

(3) Has jurisdiction over the corporation and all of its property, wherever located.

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(c) The court may appoint an individual or domestic or foreign corporation (authorized to transact business in this state) as a custodian or receiver and may require the custodian or receiver to post bond, with or without sureties, in an amount the court directs.

(d) The court shall describe the powers and duties of the custodian or receiver in its appointing order, which may be amended from time to time. Among other powers,

(1) A custodian may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the business and affairs of the corporation; and

(2) A receiver (i) may dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court; and (ii) may sue and defend in the receiver's own name as receiver in all courts of this state.

(e) The court during a custodianship may redesignate the custodian a receiver, and during a receivership may redesignate the receiver a custodian, if doing so is in the best interests of the corporation.

(f) The court from time to time during the custodianship or receivership may order compensation paid and expense disbursements or reimbursements made to the custodian or receiver from the assets of the corporation or proceeds from the sale of its assets

SECTION 30. Section 79-4-8.09, Mississippi Code of 1972, is amended as follows:

79-4-8.09. (a) The chancery court of the county where a corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may remove a director of the corporation from office in a proceeding commenced either by the corporation or by its

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shareholders holding at least ten percent (10%) of the outstanding shares of any class if the court finds that (1) the director engaged in fraudulent or dishonest conduct, or gross abuse of authority or discretion, with respect to the corporation, and (2) removal is in the best interest of the corporation.

(b) The court that removes a director may bar the director from reelection for a period prescribed by the court.

(c) If shareholders commence a proceeding under subsection (a), they shall make the corporation a party defendant.

SECTION 31. Section 79-4-10.05, Mississippi Code of 1972, is amended as follows:

79-4-10.05. Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt amendments to the corporation's articles of incorporation without shareholder approval:

(1) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(2) To delete the names and addresses of the initial directors;

(3) To change the information required by Section 79-35-5(a);

(4) If the corporation has only one (1) class of shares outstanding:

(a) To change each issued and unissued authorized share of the class into a greater number of whole shares of that class; or

(b) To increase the number of authorized shares of the class to the extent necessary to permit the issuance of shares as a share dividend;

(5) To change the corporate name by substituting the word "corporation," "incorporated," "company," "limited" or the abbreviation "corp.," "inc.," "co." or "ltd." for a similar word

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or abbreviation in the name, or by adding, deleting or changing a geographical attribution for the name;

(6) To reflect a reduction in authorized shares, as a result of the operation of Section 79-4-6.31(b), when the corporation has acquired its own shares and the articles of incorporation prohibit the reissue of the acquired shares;

(7) To delete a class of shares from the articles of incorporation, as a result of the operation of Section 79-4-6.31(b), when there are no remaining shares of the class because the corporation has acquired all shares of the class and the articles of incorporation prohibit the reissue of the acquired shares; or

(8) To make any change expressly permitted by Section 79-4-6.02(a) or (b) to be made without shareholder approval.

SECTION 32. Section 79-4-11.07, Mississippi Code of 1972, is amended as follows:

79-4-11.07. (a) When a merger becomes effective:

(1) The corporation or other entity that is designated in the plan of merger as the survivor continues or comes into existence, as the case may be;

(2) The separate existence of every corporation or other entity that is merged into the survivor ceases;

(3) All property owned by, and every contract right possessed by, each corporation or other entity that merges into the survivor is vested in the survivor without reversion or impairment;

(4) All liabilities of each corporation or other entity that is merged into the survivor are vested in the survivor subject to the limitations as provided in Sections 79-33-1 through 79-33-9;

(5) The name of the survivor may, but need not be, substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger;

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(6) The articles of incorporation or organizational documents of the survivor are amended to the extent provided in the plan of merger;

(7) The articles of incorporation or organizational documents of a survivor that is created by the merger become effective; and

(8) The shares of each corporation that is a party to the merger, and the interests in another entity that is a party to a merger, that are to be converted under the plan of merger into shares, interests, obligations, rights to acquire securities, other securities, cash, other property, or any combination of the foregoing, are converted and the former holders of such shares or interests are entitled only to the rights provided to them in the plan of merger or to any rights they may have under Title 79, Chapter 4, Article 13.

(b) When a share exchange becomes effective, the shares of each domestic corporation that are to be exchanged for shares or other securities, interests, obligations, rights to acquire shares or securities, other securities, cash, other property, or any combination of the foregoing, are entitled only to the rights provided to them in the plan of share exchange or to any rights they may have under Title 79, Chapter 4, Article 13.

(c) Any shareholder of a domestic corporation that is a party to a merger or share exchange who, prior to the merger or share exchange, was liable for the liabilities or obligations of such corporation, shall not be released from such liabilities or obligations by reason of the merger or share exchange.

(d) Upon a merger becoming effective, a foreign corporation, or a foreign other entity, that is the survivor of the merger is deemed to:

(1) Agree that service of process in a proceeding to enforce the rights of shareholders of each domestic corporation

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that is a party to the merger who exercise appraisal rights may be made in the manner provided in Section 79-35-13; and

(2) Agree that it will promptly pay the amount, if any, to which such shareholders are entitled under Title 79, Chapter 4, Article 13.

SECTION 33. Section 79-4-13.30, Mississippi Code of 1972, is amended as follows:

79-4-13.30. (a) If a shareholder makes demand for payment under Section 79-4-13.26 which remains unsettled, the corporation shall commence a proceeding within sixty (60) days after receiving the payment demand and petition the court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the sixty-day period, it shall pay in cash to each shareholder the amount the shareholder demanded pursuant to Section 79-4-13.26 plus interest.

(b) The corporation shall commence the proceeding in the appropriate court of the county where the corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state. If the corporation is a foreign corporation * * *, it shall commence the proceeding in the county in this state where the principal office * * * of the domestic corporation merged with the foreign corporation was located or, if the domestic corporation did not have its principal office in this state at the time of the transaction, in Chancery Court of the First Judicial District of Hinds County, Mississippi.

(c) The corporation shall make all shareholders (whether or not residents of this state) whose demands remain unsettled parties to the proceeding as in an action against their shares, and all parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

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(d) The jurisdiction of the court in which the proceeding is commenced under subsection (b) is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have the powers described in the order appointing them, or in any amendment to it. The shareholders demanding appraisal rights are entitled to the same discovery rights as parties in other civil proceedings. There shall be no right to a jury trial.

(e) Each shareholder made a party to the proceeding is entitled to judgment (i) for the amount, if any, by which the court finds the fair value of the shareholder's shares, plus interest, exceeds the amount paid by the corporation to the shareholder for such shares or (ii) for the fair value, plus interest, of the shareholder's shares for which the corporation elected to withhold payment under Section 79-4-13.25.

SECTION 34. Section 79-4-14.07, Mississippi Code of 1972, is amended as follows:

79-4-14.07. (a) A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the dissolved corporation present them in accordance with the notice.

(b) The notice must:

(1) Be published one (1) time in a newspaper of general circulation in the county where the dissolved corporation's principal office * * * is or was * * * located, or in Hinds County if the corporation does not have a principal office in this state;

(2) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(3) State that a claim against the dissolved corporation will be barred unless a proceeding to enforce the

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claim is commenced within three (3) years after the publication of the notice.

(c) If the dissolved corporation publishes a newspaper notice in accordance with subsection (b), the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within the lesser of three (3) years after the publication date of the newspaper notice, or any other applicable limitations period established by applicable law:

(1) A claimant who was not given written notice under Section 79-4-14.06;

(2) A claimant whose claim was timely sent to the dissolved corporation but not acted on;

(3) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(d) A claim that is not barred by Section 79-4-14.06(c) or Section 79-4-14.07(c) may be enforced:

(1) Against the dissolved corporation, to the extent of its undistributed assets; or

(2) Except as provided in Section 79-4-14.08(d), if the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of the shareholder's pro rata share of the claim or the corporate assets distributed to the shareholder in liquidation, whichever is less, but a shareholder's total liability for all claims under this section may not exceed the total amount of assets distributed to the shareholder.

SECTION 35. Section 79-4-14.08, Mississippi Code of 1972, is amended as follows:

79-4-14.08. (a) A dissolved corporation that has published a notice under Section 79-4-14.07 may file an application with the chancery court of the county where the dissolved corporation's principal office * * * is located, or the Chancery Court of the

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First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved corporation or that are based on an event occurring after the effective date of dissolution but that, based on the facts known to the dissolved corporation, are reasonably estimated to arise after the effective date of dissolution. Provision need not be made for any claim that is or is reasonably anticipated to be barred under Section 79-4-14.07(c).

(b) Within ten (10) days after the filing of the application, notice of the proceeding shall be given by the dissolved corporation to each claimant holding a contingent claim whose contingent claim is shown on the records of the dissolved corporation.

(c) The court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The reasonable fees and expenses of such guardian, including all reasonable expert witness fees, shall be paid by the dissolved corporation.

(d) Provision by the dissolved corporation for security in the amount and the form ordered by the court under subsection (a) of this section shall satisfy the dissolved corporation's obligations with respect to claims that are contingent, have not been made known to the dissolved corporation or are based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a shareholder who received assets in liquidation.

SECTION 36. Section 79-4-14.20, Mississippi Code of 1972, is amended as follows:

79-4-14.20. The Secretary of State may commence a proceeding under Section 79-4-14.21 to administratively dissolve a corporation if:

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(1) The corporation does not pay within sixty (60) days after they are due any franchise taxes or penalties imposed by Sections 79-4-1.01 et seq. or other law;

(2) The corporation does not deliver its annual report to the Secretary of State within sixty (60) days after it is due;

(3) The corporation is without a registered agent * * * in this state for sixty (60) days or more;

(4) The corporation does not notify the Secretary of State within sixty (60) days that its registered agent * * * has been changed, or that its registered agent has resigned; * * *

(5) The corporation's period of duration stated in its articles of incorporation expires; or

(6) An incorporator, director, officer or agent of the corporation signed a document he knew was false in any material respect with intent that the document be delivered to the Secretary of State for filing.

SECTION 37. Section 79-4-14.21, Mississippi Code of 1972, is amended as follows:

79-4-14.21. (a) If the Secretary of State determines that one or more grounds exist under Section 79-4-14.20 for dissolving a corporation, he shall serve the corporation with written notice of his determination * * *, except that such determination may be served by first-class mail.

(b) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after service of the notice is perfected * * *, the Secretary of State shall administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the

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corporation * * *, except that such certificate may be served by first-class mail.

(c) A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under Section 79-4-14.05 and notify claimants under Sections 79-4-14.06 and 79-4-14.07.

(d) The administrative dissolution of a corporation does not terminate the authority of its registered agent.

SECTION 38. Section 79-4-14.22, Mississippi Code of 1972, is amended as follows:

79-4-14.22. (a) A corporation administratively dissolved under Section 79-4-14.21 may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The applicant must:

(1) Recite the name of the corporation and the effective date of its administrative dissolution;

(2) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(3) State that the corporation's name satisfies the requirements of Section 79-4-4.01; and

(4) Contain a certificate from the Mississippi Department of Revenue reciting that all taxes owed by the corporation have been paid.

(b) If the Secretary of State determines that the application contains the information required by subsection (a) and that the information is correct, he shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites his determination and the effective date of reinstatement, file the original of the certificate and serve a copy on the corporation * * *.

(c) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative

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dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred.

SECTION 39. Section 79-4-14.23, Mississippi Code of 1972, is amended as follows:

79-4-14.23. (a) If the Secretary of State denies a corporation's application for reinstatement following administrative dissolution, he shall serve the corporation * * * with a written notice that explains the reason or reasons for denial.

(b) The corporation may appeal the denial of reinstatement to the Chancery Court of the First Judicial District of Hinds County * * * or the chancery court of the county where the corporation's principal office is located or where the corporation is domiciled within thirty (30) days after service of the notice of denial is perfected. The corporation appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the Secretary of State's certificate of dissolution, the corporation's application for reinstatement and the Secretary of State's notice of denial.

(c) The court may summarily order the Secretary of State to reinstate the dissolved corporation or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as in other civil proceedings.

SECTION 40. Section 79-4-14.31, Mississippi Code of 1972, is amended as follows:

79-4-14.31. (a) Venue for a proceeding brought by any party named in Section 79-4-14.30 lies in the county where a corporation's principal office * * * is or was * * * located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state.

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(b) It is not necessary to make shareholders parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(c) A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing can be held.

(d) Within ten (10) days of the commencement of a proceeding under Section 79-4-14.30(2) to dissolve a corporation that is not a public corporation, the corporation shall send to all shareholders, other than the petitioner, a notice stating that the shareholders are entitled to avoid the dissolution of the corporation by electing to purchase the petitioner's shares under Section 79-4-14.34 and accompanied by a copy of Section 79-4-14.34.

SECTION 41. Section 79-4-15.03, Mississippi Code of 1972, is amended as follows:

79-4-15.03. (a) A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the Secretary of State for filing. The application must set forth:

(1) The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of Section 79-4-15.06;

(2) The name of the state or country under whose law it is incorporated;

(3) Its date of incorporation and period of duration;

(4) The street address of its principal office;

(5) The information required by Section 79-35-5(a); and

(6) The names and usual business addresses of its current directors and officers.

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(b) The foreign corporation shall deliver with the completed application a certificate of existence (or a document of similar import) duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under whose law it is incorporated.

SECTION 42. Section 79-4-15.04, Mississippi Code of 1972, is amended as follows:

79-4-15.04. (a) A foreign corporation authorized to transact business in this state must obtain an amended certificate of authority from the Secretary of State if it changes:

- (1) Its corporate name;
- (2) The period of its duration; * * *
- (3) Any of the information required by Section

79-35-5(a); or

- (4) The state or country of its incorporation.

(b) The requirements of Section 79-4-15.03 for obtaining an original certificate of authority apply to obtaining an amended certificate under this section.

SECTION 43. Section 79-4-15.10, Mississippi Code of 1972, is amended as follows:

79-4-15.10. * * * Notice or demand required or permitted by law * * * on a foreign corporation authorized to transact business in this state is governed by Section 13 of the Mississippi Registered Agents Act. Service of process is governed by the Mississippi Rules of Civil Procedure.

* * *

SECTION 44. Section 79-4-15.20, Mississippi Code of 1972, is amended as follows:

79-4-15.20. (a) A foreign corporation authorized to transact business in this state may not withdraw from this state until it obtains a certificate of withdrawal from the Secretary of State.

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(b) A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the Secretary of State for filing. The application must set forth:

(1) The name of the foreign corporation and the name of the state or country under whose law it is incorporated;

(2) That it is not transacting business in this state and that it surrenders its authority to transact business in this state;

(3) That it revokes the authority of its registered agent to accept service on its behalf and appoints the Secretary of State as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this state;

(4) A mailing address to which the Secretary of State may mail a copy of any process served on him under paragraph (3) of this subsection; and

(5) A commitment to notify the Secretary of State in the future of any change in its mailing address.

(c) After the withdrawal of the corporation is effective, service of process on the Secretary of State under the Mississippi Rules of Civil Procedure is service on the foreign corporation. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign corporation at the mailing address set forth in its application for withdrawal.

SECTION 45. Section 79-4-15.30, Mississippi Code of 1972, is amended as follows:

79-4-15.30. The Secretary of State may commence a proceeding under Section 79-4-15.31 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

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(1) The foreign corporation does not deliver its annual report to the Secretary of State within sixty (60) days after it is due;

(2) The foreign corporation does not pay within sixty (60) days after they are due any franchise taxes or penalties imposed by Sections 79-4-1.01 et seq. or other law;

(3) The foreign corporation is without a registered agent * * * in this state for sixty (60) days or more;

(4) The foreign corporation does not inform the Secretary of State by an appropriate filing that its registered agent * * * has changed or that its registered agent has resigned, * * * within sixty (60) days of the change or resignation * * *;

(5) An incorporator, director, officer or agent of the foreign corporation signed a document he knew was false in any material respect with intent that the document be delivered to the Secretary of State for filing;

(6) The Secretary of State receives a duly authenticated certificate from the Secretary of State or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated stating that it has been dissolved or disappeared as the result of a merger.

SECTION 46. Section 79-4-15.31, Mississippi Code of 1972, is amended as follows:

79-4-15.31. (a) If the Secretary of State determines that one or more grounds exist under Section 79-4-15.30 for revocation of a certificate of authority, he shall serve the foreign corporation with written notice of his determination under Section 79-4-15.10, except that such determination may be served by first-class mail.

(b) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of

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the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after service of the notice is perfected under Section 79-4-15.10, the Secretary of State may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the foreign corporation under Section 79-4-15.10, except that such certificate may be served by first-class mail.

(c) The authority of a foreign corporation to transact business in this state ceases on the date shown on the certificate revoking its certificate of authority.

(d) The Secretary of State's revocation of a foreign corporation's certificate of authority appoints the Secretary of State the foreign corporation's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign corporation was authorized to transact business in this state. Service of process on the Secretary of State under the Mississippi Rules of Civil Procedure is service on the foreign corporation. Upon receipt of process, the Secretary of State shall mail a copy of the process to the secretary of the foreign corporation at its principal office shown in its most recent annual report or in any subsequent communication received from the corporation stating the current mailing address of its principal office, or, if none are on file, in its application for a certificate of authority.

(e) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation.

SECTION 47. Section 79-4-15.32, Mississippi Code of 1972, is amended as follows:

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79-4-15.32. (a) A foreign corporation whose certificate of authority is administratively revoked under Section 79-4-15.31 may apply to the Secretary of State for reinstatement at any time after the effective date of such revocation. The application must:

(1) Recite the name of the corporation and the effective date of the administrative revocation;

(2) State that the ground or grounds for revocation either did not exist or have been eliminated;

(3) State that the corporation's name satisfies the requirements of Section 79-4-4.01; and

(4) Contain a certificate from the Mississippi Department of Revenue reciting that the corporation has properly filed all reports and paid all taxes and penalties required by revenue laws of this state.

(b) If the Secretary of State determines that the application contains the information required by subsection (a) and that the information is correct, he shall reinstate the certificate of authority, prepare a certificate that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation under Section 79-35-13.

(c) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative revocation and the corporation resumes carrying on its business as if the administrative revocation had never occurred.

SECTION 48. Section 79-4-15.33, Mississippi Code of 1972, is amended as follows:

79-4-15.33. (a) If the Secretary of State denies a foreign corporation's application for reinstatement following administrative revocation, he shall serve the corporation * * * with a written communication that explains the reason or reasons for denial.

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(b) The corporation may appeal the denial of reinstatement to the Chancery Court of the First Judicial District of Hinds County or the chancery court of the county where the corporation is domiciled or where the corporation's principal office is located within thirty (30) days after service of the communication of denial is perfected. The corporation appeals by petitioning the court to set aside the revocation and attaching to the petition copies of the Secretary of State's communication of denial.

(c) The court may summarily order the Secretary of State to reinstate the revoked corporation or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as in other civil proceedings.

SECTION 49. Section 79-4-16.04, Mississippi Code of 1972, is amended as follows:

79-4-16.04. (a) If a corporation does not allow a shareholder who complies with Section 79-4-16.02(a) to inspect and copy any records required by that subsection to be available for inspection, the chancery court of the county where the corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the shareholder.

(b) If a corporation does not within a reasonable time allow a shareholder to inspect and copy any other record, the shareholder who complies with Section 79-4-16.02(b) and (c) may apply to the chancery court in the county where the corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, for an order to permit inspection and copying of the records demanded.

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The court shall dispose of an application under this subsection on an expedited basis.

(c) If the court orders inspection and copying of the records demanded, it shall also order the corporation to pay the shareholder's costs (including reasonable counsel fees) incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the shareholder to inspect the records demanded.

(d) If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding shareholder.

SECTION 50. Section 79-4-16.05, Mississippi Code of 1972, is amended as follows:

79-4-16.05. (a) A director of a corporation is entitled to inspect and copy the books, records and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the corporation.

(b) The chancery court of the county where the corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may order inspection and copying of the books, records and documents at the corporation's expense, upon application of a director who has been refused such inspection rights, unless the corporation establishes that the director is not entitled to such inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

(c) If an order is issued, the court may include provisions protecting the corporation from undue burden or expense, and

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prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the director for the director's costs (including reasonable counsel fees) incurred in connection with the application.

SECTION 51. Section 79-4-16.22, Mississippi Code of 1972, is amended as follows:

79-4-16.22. (a) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver within sixty (60) days of each anniversary date of its incorporation with respect to a domestic corporation or its authorization to transact business in this state with respect to a foreign corporation, or such other date as may be established by the Secretary of State * * *, to the Secretary of State for filing an annual report that sets forth:

- (1) The name of the corporation and the state or country under whose law it is incorporated;
- (2) The information required by Section 79-35-5(a);
- (3) The address of its principal office;
- (4) The names and business addresses of its directors and principal officers;
- (5) A brief description of the nature of its business;
- (6) The total number of authorized shares, itemized by class and series, if any, within each class; and
- (7) The total number of issued and outstanding shares, itemized by class and series, if any, within each class.

(b) Information in the annual report must be current as of the date the annual report is executed on behalf of the corporation.

(c) If an annual report does not contain the information required by this section, the Secretary of State shall notify promptly the reporting domestic or foreign corporation in writing

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and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within thirty (30) days after the effective date of notice, it is deemed to be timely filed.

SECTION 52. Section 79-11-109, Mississippi Code of 1972, is amended as follows:

79-11-109. (1) Except as otherwise provided in subsection (4) of this section, the Secretary of State shall collect the following fees when the documents described in this subsection are delivered for filing:

Document	Fee
(a) Articles of incorporation.....	\$50.00
(b) Application for use of indistinguishable name.....	25.00
(c) Application for reserved name.....	25.00
(d) Notice of transfer of reserved name.....	25.00
(e) Application for registered name.....	50.00
(f) Application for renewal of registered name...	50.00
(g) <u>[Reserved]</u>	
(h) <u>[Reserved]</u>	
(i) <u>[Reserved]</u>	
(j) Amendment of articles of incorporation.....	50.00
(k) Restatement of articles of incorporation with amendments.....	50.00
(l) Articles of merger.....	50.00
(m) Articles of dissolution.....	25.00
(n) Articles of revocation of dissolution.....	25.00
(o) Certificate of administrative dissolution.....	No Fee
(p) Application for reinstatement following administrative dissolution.....	50.00
(q) Certificate of reinstatement.....	No Fee
(r) Certificate of judicial dissolution.....	No Fee

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(s) Application for certificate of authority.....	100.00
(t) Application for amended certificate of authority.....	50.00
(u) Application for certificate of withdrawal....	25.00
(v) Certificate of revocation of authority to transact business.....	No Fee
(w) Status report.....	25.00
(x) Articles of correction.....	50.00
(y) Application for certificate of existence or authorization.....	25.00
(z) Any other document required or permitted to be filed by Section 79-11-101 et seq.....	25.00

(2) Except as otherwise provided in subsection (4) of this section, the Secretary of State shall collect a fee of Twenty-five Dollars (\$25.00) upon being served with process under Section 79-11-101 et seq. The party to a proceeding causing service of process is entitled to recover the fee paid the Secretary of State as costs if the party prevails in the proceeding.

(3) Except as otherwise provided in subsection (4) of this section, the Secretary of State shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

- (a) One Dollar (\$1.00) a page for copying; and
- (b) Ten Dollars (\$10.00) for the certificate.

(4) The Secretary of State may collect a filing fee greater than the fee set forth in subsections (1), (2) and (3) in an amount not to exceed twice the fee set forth in subsections (1), (2) and (3) of processing the filing, if the form prescribed by the Secretary of State for such filing has not been used.

SECTION 53. Section 79-11-115, Mississippi Code of 1972, is amended as follows:

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79-11-115. (1) If a document delivered to the Office of the Secretary of State for filing satisfies the requirements of Section 79-11-105, the Secretary of State shall file it.

(2) The Secretary of State files a document by recording it as filed on the date and time of receipt. After filing a document, except as provided in Section 79-35-11, the Secretary of State shall deliver to the domestic or foreign corporation or its representative a copy of the document with an acknowledgement of the date and time of filing.

(3) Upon refusing to file a document, the Secretary of State shall return it to the domestic or foreign corporation or its representative within five (5) days after the document was delivered, together with a brief, written explanation of the reason or reasons for the refusal.

(4) The Secretary of State's duty to file documents under this section is ministerial. Filing or refusal to file a document does not:

(a) Affect the validity or invalidity of the document, in whole or in part;

(b) Relate to the correctness or incorrectness of information contained in the document; or

(c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

SECTION 54. Section 79-11-117, Mississippi Code of 1972, is amended as follows:

79-11-117. (1) If the Secretary of State refuses to file a document delivered for filing to the Secretary of State's office, the domestic or foreign corporation may appeal the refusal to the chancery court in the county where the corporation's principal office * * * is or will be located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state. The

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appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the Secretary of State's explanation of the refusal to file.

(2) The court may summarily order the Secretary of State to file the document or take other action the court considered appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

SECTION 55. Section 79-11-131, Mississippi Code of 1972, is brought forward as follows:

79-11-131. (1) If for any reason it is impractical or impossible for any corporation to call or conduct a meeting of its members, delegates or directors, or otherwise obtain their consent, in the manner prescribed by its articles, bylaws or Section 79-11-101 et seq., then upon petition of a director, officer, delegate, member or the Attorney General, the chancery court of the county where the corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members, delegates or directors be authorized in such a manner as the court finds fair and equitable under the circumstances.

(2) The court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all persons who would be entitled to notice of a meeting held pursuant to the articles, bylaws and Section 79-11-101 et seq., whether or not the method results in actual notice to all such persons or conforms to the notice requirements that would otherwise apply. In a proceeding under this section the court may determine who the members or directors are.

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(3) The order issued pursuant to this section may dispense with any requirement relating to the holding of or voting at meetings or obtaining votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws or Section 79-11-101 et seq.

(4) Whenever practical any order issued pursuant to this section shall limit the subject matter of meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section; provided, however, that an order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger or sale of assets.

(5) Any meeting or other method of obtaining the vote of members, delegates or directors conducted pursuant to an order issued under this section, and which complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the force and effect as if it complied with every requirement imposed by the articles, bylaws and Section 79-11-101 et seq.

SECTION 56. Section 79-11-137, Mississippi Code of 1972, is amended as follows:

79-11-137. (1) The articles of incorporation must set forth:

(a) A corporate name for the corporation that satisfies the requirements of Section 79-11-157;

(b) The period of duration, which may be perpetual;

(c) The information required by Section 79-35-5(a);

(d) The name and address of each incorporator;

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(e) If the corporation is incorporated on or after January 1, 2012, the corporation's initial planned, primary nonprofit activity; and

(f) Any other information the Secretary of State may reasonably require by rule, including, without limitation, the contact name, electronic mail address, telephone number or business or mailing address of the corporation or that can be used to contact the corporation.

(2) The articles of incorporation may set forth:

(a) The names and addresses of the individuals who are to serve as the initial directors;

(b) Provisions not inconsistent with law regarding:

(i) The purpose or purposes for which the corporation is organized;

(ii) Managing the business and regulating the affairs of the corporation;

(iii) Defining, limiting and regulating the powers of the corporation, its board of directors and members;

(c) Any provision that under Section 79-11-101 et seq. is required or permitted to be set forth in the bylaws; and

(d) A provision permitting or making obligatory indemnification of a director for liability (as defined in Section 79-11-281(1)(c)) to any person for any action taken, or any failure to take any action as a director, except liability for:

(i) Receipt of a financial benefit to which the director is not entitled;

(ii) An intentional infliction of harm;

(iii) A violation of Section 79-11-270; or

(iv) An intentional violation of criminal law.

(3) The articles of incorporation need not set forth any of the corporate powers enumerated in Section 79-11-101 et seq.

(4) The liability of a director of a corporation that is not a charitable organization as defined in Section 79-11-501 may be

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eliminated or limited by a provision of the articles of incorporation that a director shall not be liable to the corporation or its members for money damages for any action taken or any failure to take any action as a director, except liability for:

(a) The amount of a financial benefit received by the director to which the director is not entitled;

(b) An intentional infliction of harm;

(c) A violation of Section 79-11-270; or

(d) An intentional violation of criminal law.

SECTION 57. Section 79-11-201, Mississippi Code of 1972, is amended as follows:

79-11-201. (1) The chancery court of the county where a corporation's principal office * * * is or will be located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may summarily order a meeting to be held:

(a) On application of any member or other person entitled to participate in the annual meeting, if an annual meeting was not held within the earlier of six (6) months after the end of the corporation's fiscal year or fifteen (15) months after its last annual meeting; or

(b) On application of a member who signed a demand for a special meeting valid under Section 79-11-199, or a person or persons entitled to call a special meeting, if:

(i) Notice of the special meeting was not given within thirty (30) days after the date the demand was delivered to a corporate officer; or

(ii) The special meeting was not held in accordance with the notice.

(2) The court may fix the time and place of the meeting, specify a record date for determining members entitled to notice of and to vote at the meeting, prescribe the form and content of

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the meeting notice, fix the quorum required for specific matters to be considered at the meeting (or direct that the votes represented at the meeting constitute a quorum for action on those matters), and enter other orders necessary to accomplish the purpose or purposes of the meeting.

(3) If the court orders a meeting, it may also order the corporation to pay the member's cost (including reasonable counsel fees) incurred to obtain the order.

SECTION 58. Section 79-11-213, Mississippi Code of 1972, is amended as follows:

79-11-213. (1) After fixing a record date for a notice of a meeting, a corporation shall prepare an alphabetical list of the names of all its members who are entitled to notice of the meeting. The list must show the address and number of votes each member is entitled to vote at the meeting. The corporation shall prepare on a current basis through the time of the membership meeting a list of members, if any, who are entitled to vote at the meeting, but not entitled to notice of the meeting. This list shall be prepared on the same basis and be part of the list of members.

(2) The list of members must be available for inspection by any member for the purpose of communication with other members concerning the meeting, beginning two (2) business days after notice is given of the meeting for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a reasonable place identified in the meeting notice in the city where the meeting will be held. A member, a member's agent, or attorney is entitled on written demand to inspect and, subject to the limitations of Sections 79-11-285(c) and 79-11-291, to copy the list, at a reasonable time and at the member's expense, during the period it is available for inspection.

(3) The corporation shall make the list of members available at the meeting, and any member, a member's agent, or attorney is

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entitled to inspect the list at any time during the meeting or any adjournment.

(4) If the corporation refuses to allow a member, a member's agent, or attorney to inspect the list of members before or at the meeting (or copy the list as permitted by subsection (2) of this section); the chancery court of the county where a corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, on application of the member, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete and may order the corporation to pay the member's costs (including reasonable counsel fees) incurred to obtain the order.

(5) Unless a written demand to inspect and copy a membership list has been made under subsection (2) of this section prior to the membership meeting and a corporation improperly refuses to comply with the demand, refusal or failure to comply with this section does not affect the validity of action taken at the meeting.

SECTION 59. Section 79-11-289, Mississippi Code of 1972, is amended as follows:

79-11-289. (1) If a corporation does not allow a member who complies with Section 79-11-285(1) to inspect and copy any records required by that subsection to be available for inspection, the chancery court in the county where the corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the member.

(2) If a corporation does not within a reasonable time allow a member to inspect and copy any other record, the member who

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complies with Section 79-11-285(2) and (3) may apply to the chancery court in the county where the corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

(3) If the court orders inspection and copying of the records demanded, it shall also order the corporation to pay the member's costs (including reasonable attorney's fees) incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the member to inspect the records demanded.

(4) If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding member.

SECTION 60. Section 79-11-299, Mississippi Code of 1972, is amended as follows:

79-11-299. Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt one or more amendments to the corporation's articles of incorporation without action by members:

(a) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(b) To delete the names and addresses of the initial directors;

(c) To change the information required by Section 79-35-5(a);

(d) To make any other change expressly permitted by Section 79-11-101 et seq. to be made without member action.

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SECTION 61. Section 79-11-327, Mississippi Code of 1972, is amended as follows:

79-11-327. (1) One or more foreign business or nonprofit corporations may merge with one or more domestic nonprofit corporations if:

(a) The merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger;

(b) The foreign corporation complies with Section 79-11-323 if it is the surviving corporation of the merger; and

(c) Each domestic nonprofit corporation complies with the applicable provisions of Sections 79-11-319 and 79-11-321 and, if it is the surviving corporation of the merger, with Section 79-11-323.

(2) Upon the merger taking effect, the surviving foreign business or nonprofit corporation may be served with process in any proceeding brought against it as provided in the Mississippi Rules of Civil Procedure.

SECTION 62. Section 79-11-345, Mississippi Code of 1972, is amended as follows:

79-11-345. (1) A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the corporation present them in accordance with the notice.

(2) The notice must:

(a) Be published one (1) time in a newspaper of general circulation in the county where the dissolved corporation's principal office * * * is or was * * * located, or in Hinds County if the corporation does not have a principal office in this state;

(b) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

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(c) State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within two (2) years after publication of this notice.

(3) If the dissolved corporation publishes a newspaper notice in accordance with subsection (2) of this section, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within two (2) years after the publication date of the newspaper notice:

(a) A claimant who did not receive written notice under Section 79-11-343;

(b) A claimant whose claim was timely sent to the dissolved corporation but not acted on; and

(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(4) A claim may be enforced under this section:

(a) Against the dissolved corporation, to the extent of its undistributed assets; or

(b) If the assets have been distributed in liquidation, against any person, other than a creditor of the corporation, to whom the corporation distributed its property to the extent of the distributee's pro rata share of the claim or the corporate assets distributed to such person in liquidation, whichever is less, but the distributee's total liability for all claims under this section may not exceed the total amount of assets distributed to the distributee.

SECTION 63. Section 79-11-347, Mississippi Code of 1972, is amended as follows:

79-11-347. The Secretary of State may commence a proceeding under Section 79-11-349 to administratively dissolve a corporation if:

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(a) The corporation does not pay within sixty (60) days after they are due any taxes or penalties imposed by Section 79-11-101 et seq. or other law;

(b) The corporation does not deliver a requested status report to the Secretary of State within sixty (60) days after it is due;

(c) The corporation is without a registered agent * * * in this state for sixty (60) days or more;

(d) The corporation does not notify the Secretary of State within one hundred twenty (120) days that its registered agent * * * has been changed or that its registered agent has resigned * * *;

(e) The corporation's period of duration, if any, stated in its articles of incorporation expires; * * *

(f) The corporation fails to report within the time period specified in Section 79-11-405 the suspension or revocation of its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code; or

(g) An incorporator, director, officer or agent of the corporation signed a document he knew was false in any material respect with intent that the document be delivered to the Secretary of State for filing.

SECTION 64. Section 79-11-349, Mississippi Code of 1972, is amended as follows:

79-11-349. (1) Upon determining that one or more grounds exist under Section 79-11-347 for dissolving a corporation, the Secretary of State shall notify the corporation in the form of a record of that determination. * * *

(2) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within at least sixty (60) days after service of the notice is perfected, the Secretary of State may

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administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the corporation * * *.

(3) A corporation administratively dissolved continues its corporate existence but may not carry on any activities except those necessary to wind up and liquidate its affairs under Section 79-11-341 and notify its claimants under Sections 79-11-343 and 79-11-345.

(4) The administrative dissolution of a corporation does not terminate the authority of its registered agent.

SECTION 65. Section 79-11-351, Mississippi Code of 1972, is amended as follows:

79-11-351. (1) A corporation administratively dissolved under Section 79-11-349 may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application must:

(a) Recite the name of the corporation and the effective date of its administrative dissolution;

(b) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(c) State that the corporation's name satisfies the requirements of Section 79-11-157; and

(d) Contain a certificate from the Department of Revenue reciting that all taxes owed by the corporation have been paid.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, the Secretary of State shall cancel the certificate of dissolution and prepare a certificate of reinstatement reciting that determination and the

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effective date of reinstatement, file the original of the certificate and serve a copy on the corporation * * *.

(3) When reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation shall resume carrying on its activities as if the administrative dissolution had never occurred.

SECTION 66. Section 79-11-353, Mississippi Code of 1972, is amended as follows:

79-11-353. (1) The Secretary of State, upon denying a corporation's application for reinstatement following administrative dissolution, shall serve the corporation * * * with a written notice that explains the reason or reasons for denial.

(2) The corporation may appeal the denial of reinstatement to the chancery court of the county where the corporation's principal office * * * is or was located, or in the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, within ninety (90) days after service of the notice of denial is perfected. The corporation appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the Secretary of State's certificate of dissolution, the corporation's application for reinstatement and the Secretary of State's notice of denial.

(3) The court may summarily order the Secretary of State to reinstate the dissolved corporation or may take other action the court considers appropriate.

(4) The court's final decision may be appealed as in other civil proceedings.

SECTION 67. Section 79-11-355, Mississippi Code of 1972, is amended as follows:

79-11-355. (1) The chancery court of the county where the corporation's principal office * * * is or was located, or in the

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Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may dissolve a corporation:

(a) In a proceeding by the Attorney General or the Secretary of State if it is established that:

(i) The corporation obtained its articles of incorporation through fraud;

(ii) The corporation has continued to exceed or abuse the authority conferred upon it by law; or

(iii) If the corporation is a charitable organization, as defined in Section 79-11-501, that:

1. The corporate assets are being misapplied or wasted;

2. The corporation is unable to carry out its purpose(s); or

3. The corporation has violated the laws regulating the solicitation of charitable contributions, Section 79-11-501 et seq.;

(b) In a proceeding by fifty (50) members or members holding five percent (5%) of the voting power, whichever is less, or by a director if it is established that:

(i) The directors are deadlocked in the management of the corporate affairs, and the members, if any, are unable to breach the deadlock;

(ii) The directors or those in control of the corporation have acted, are acting or will act in a manner that is illegal, oppressive or fraudulent;

(iii) The members are deadlocked in voting power and have failed, for a period that includes at least two (2) consecutive annual meeting dates, to elect successors to directors whose terms have, or would otherwise have, expired; or

(iv) The corporate assets are being misapplied or wasted;

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(c) In a proceeding by a creditor if it is established that:

(i) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied and the corporation is insolvent; or

(ii) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent; or

(d) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

(2) Prior to dissolving a corporation, the court shall consider whether there are reasonable alternatives to dissolution.

SECTION 68. Section 79-11-357, Mississippi Code of 1972, is amended as follows:

79-11-357. (1) Venue for a proceeding to dissolve a corporation lies in the county where a corporation's principal office * * * is or was * * * located, or in the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state.

(2) It is not necessary to make directors or members parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(3) A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located and carry on the activities of the corporation until a full hearing can be held.

SECTION 69. Section 79-11-367, Mississippi Code of 1972, is amended as follows:

79-11-367. (1) A foreign corporation may apply for a certificate of authority to transact business in this state by

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delivering an application to the Secretary of State. The application must set forth:

(a) The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of Section 79-11-373;

(b) The name of the state or country under whose law it is incorporated;

(c) The date of incorporation and period of duration;

(d) The street address of its principal office;

(e) The information required under Section 79-35-5(a);

(f) The names and usual business or home addresses of its current directors and officers; and

(g) Whether the foreign corporation has members.

(2) The foreign corporation shall deliver with the completed application a certificate of existence (or a document of similar import), dated not more than sixty (60) days prior to the date the application is filed in this state, duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under whose law it is incorporated.

SECTION 70. Section 79-11-369, Mississippi Code of 1972, is amended as follows:

79-11-369. (1) A foreign corporation authorized to transact business in this state must obtain an amended certificate of authority from the Secretary of State if it changes:

(a) Its corporate name;

(b) The period of its duration; * * *

(c) Any information required by Section 79-35-5(a); or

(d) The state or country or its incorporation.

(2) The requirements of Section 79-11-367 for obtaining an original certificate of authority apply to obtaining an amended certificate under this section.

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SECTION 71. Section 79-11-381, Mississippi Code of 1972, is amended as follows:

79-11-381. * * * Notice or demand required or permitted by law on a foreign corporation authorized to transact business in this state is governed by Section 13 of the Mississippi Registered Agents Act. Service of process is governed by the Mississippi Rules of Civil Procedure.

* * *

SECTION 72. Section 79-11-383, Mississippi Code of 1972, is amended as follows:

79-11-383. (1) A foreign corporation authorized to transact business in this state may not withdraw from this state until it obtains a certificate of withdrawal from the Secretary of State.

(2) A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the Secretary of State for filing. The application must set forth:

(a) The name of the foreign corporation and the name of the state or country under whose law it is incorporated;

(b) A representation that it is not transacting business in this state and that it surrenders its authority to transact business in this state;

(c) A representation that it revokes the authority of its registered agent to accept service on its behalf and appoints the Secretary of State as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to do business in this state;

(d) A mailing address to which the Secretary of State may mail a copy of any process served on him or her under paragraph (c) of this subsection; and

(e) A commitment to notify the Secretary of State in the future of any change in the mailing address.

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(3) After the withdrawal of the corporation is effective, service of process on the Secretary of State under the Mississippi Rules of Civil Procedure is service on the foreign corporation. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign corporation at the * * * address set forth in its application for withdrawal.

SECTION 73. Section 79-11-385, Mississippi Code of 1972, is amended as follows:

79-11-385. (1) The Secretary of State may commence a proceeding under Section 79-11-387 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(a) The foreign corporation does not deliver the status report to the Secretary of State within sixty (60) days after it is due;

(b) The foreign corporation does not pay within sixty (60) days after they are due any franchise taxes or penalties imposed by Section 79-11-101 et seq. or other law;

(c) The foreign corporation is without a registered agent * * * in this state for sixty (60) days or more;

(d) The foreign corporation does not inform the Secretary of State by an appropriate filing that its registered agent * * * has changed or that its registered agent has resigned * * * within ninety (90) days of the change or resignation * * *;

(e) An incorporator, director, officer or agent of the foreign corporation signed a document such person knew was false in any material respect with intent that the document be delivered to the Secretary of State for filing; or

(f) The Secretary of State receives a duly authenticated certificate from the Secretary of State or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated

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stating that it has been dissolved or has disappeared as the result of a merger.

(2) The Attorney General may commence a proceeding under Section 79-11-387 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if the corporation has continued to exceed or abuse the authority conferred upon it by law.

SECTION 74. Section 79-11-389, Mississippi Code of 1972, is amended as follows:

79-11-389. (1) A foreign corporation may appeal the Secretary of State's revocation of its certificate of authority to the Chancery Court of the First Judicial District of Hinds County, Mississippi, or the chancery court of the county where the corporation's principal * * * office * * * is located within thirty (30) days after the service of the certificate of revocation is perfected under Section 79-11-381. The foreign corporation applies by petitioning the court to set aside the revocation and attaching to the petition copies of its certificate of authority and the Secretary of State's certificate of revocation.

(2) The court may summarily order the Secretary of State to reinstate the certificate of authority or may take any other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

SECTION 75. Section 79-11-391, Mississippi Code of 1972, is amended as follows:

79-11-391. (1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall upon request deliver to the Secretary of State a status report on a form prescribed and furnished by the Secretary of State that sets forth:

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(a) The name of the corporation and the jurisdiction under whose law it is incorporated;

(b) The information required by Section 79-35-5(a);

(c) The address of its principal office;

(d) The names and business or residence addresses of its directors and principal officers;

(e) A brief description of the nature of its activities; and

(f) Whether or not it has members.

(2) Upon receiving the request for a status report, a domestic or foreign corporation shall have ninety (90) days to deliver the report to the Secretary of State.

(3) The information in the status report must be current on the date the status report is executed on behalf of the corporation.

(4) The Secretary of State may request a status report from time to time, but not more frequently than once every five (5) years, beginning five (5) years from the date upon which a domestic corporation was incorporated or a foreign corporation was authorized to transact business.

(5) If a status report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within thirty (30) days after the effective date of notice, it is deemed to be timely filed.

SECTION 76. Section 79-13-1001, Mississippi Code of 1972, is amended as follows:

79-13-1001. (a) A partnership may become a limited liability partnership pursuant to this section.

(b) The terms and conditions on which a partnership becomes a limited liability partnership must be approved by the vote

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necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly considers obligations to contribute to the partnership, the vote necessary to amend those provisions.

(c) After the approval required by subsection (b), a partnership may become a limited liability partnership by filing a statement of qualification. The statement must contain:

(1) The name of the partnership;

(2) The street address of the partnership's chief executive office and, if different, the street address of an office in this state, if any;

(3) If the partnership does not have an office in this state, the information required by Section 79-35-5(a);

(4) A statement that the partnership elects to be a limited liability partnership; and

(5) A deferred effective date, if any.

(d) [Reserved]

(e) The status of a partnership as a limited liability partnership is effective on the later of the filing of the statement or a date specified in the statement. The status remains effective, regardless of changes in the partnership, until it is canceled pursuant to Section 79-13-105(d).

(f) The status of a partnership as a limited liability partnership and the liability of its partners is not affected by errors or later changes in the information required to be contained in the statement of qualification under subsection (c).

(g) The filing of a statement of qualification establishes that a partnership has satisfied all conditions precedent to the qualification of the partnership as a limited liability partnership.

(h) An amendment or cancellation of a statement of qualification is effective when it is filed or on a deferred effective date specified in the amendment or cancellation.

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SECTION 77. The following shall be codified as Section 79-13-1003, Mississippi Code of 1972:

79-13-1003. The Secretary of State may commence a proceeding under Section 79-13-1004 to administratively dissolve a statement of qualification if:

(1) The limited liability partnership does not pay within sixty (60) days after they are due any fees, taxes, or penalties imposed by this chapter or other law;

(2) [Reserved]

(3) The limited liability partnership is without a registered agent in this state for sixty (60) days or more;

(4) The limited liability partnership does not notify the Secretary of State within sixty (60) days that its registered agent has been changed or that its registered agent has resigned; or

(5) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the limited liability partnership pursuant to this chapter.

SECTION 78. The following shall be codified as Section 79-13-1004, Mississippi Code of 1972:

79-13-1004. (a) If the Secretary of State determines that one or more grounds exist under Section 79-13-1003 for the administrative dissolution of a statement of qualification, the Secretary of State shall serve the limited liability partnership with written notice of his determination, except that such determination may be served by first-class mail.

(b) If the limited liability partnership does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after service of the notice, the Secretary of State shall administratively dissolve the statement of qualification by

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signing a certification of the dissolution that recites the ground for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve the limited liability partnership with a copy of the certificate, except that such certificate may be served by first-class mail.

(c) The administrative dissolution of a statement of qualification affects only the partnership's status as a limited liability partnership and is not an event of dissolution of the partnership.

(d) A limited liability partnership administratively dissolved continues its existence but may carry on only business necessary to wind up and liquidate its business and affairs under Section 79-13-803.

(e) The administrative dissolution of the statement of qualification of a limited partnership does not terminate the authority of its agent for service of process.

SECTION 79. The following shall be codified as Section 79-13-1005, Mississippi Code of 1972:

79-13-1005. (a) A limited liability partnership whose statement of qualification has been administratively dissolved under Section 79-14-1004 may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application must:

(1) Recite the name of the limited liability partnership and the effective date of its administrative dissolution;

(2) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(3) State that the limited liability partnership's name satisfies the requirements of Section 79-13-1002; and

(4) Contain a certificate from the Mississippi Department of Revenue reciting that all taxes owed by the limited liability partnership have been paid.

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(b) If the Secretary of State determines that the application contains the information required by subsection (a) of this section and that the information is correct, the Secretary of State shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement, file the original of the certificate and serve the limited liability partnership with a copy of the certificate.

(c) When the reinstatement is effective:

(1) The reinstatement relates back to and takes effect as of the effective date of the administrative dissolution;

(2) Any liability incurred by a member after the administrative dissolution and before the reinstatement shall be determined as if the administrative dissolution had never occurred; and

(3) The limited liability partnership may resume its business as if the administrative dissolution had never occurred.

SECTION 80. The following shall be codified as Section 79-13-1006, Mississippi Code of 1972:

79-13-1006. (a) If the Secretary of State denies a limited liability partnership's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited liability partnership with a record that explains the reason or reasons for denial.

(b) The limited liability partnership may appeal the denial of reinstatement to the Chancery Court of the First Judicial District of Hinds County or the chancery court of the county where the limited partnership is domiciled within thirty (30) days after service of the notice of denial is perfected. The limited liability partnership appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the Secretary of State's certificate of dissolution, the limited

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liability partnership's application for reinstatement, and the Secretary of State's notice of denial.

(c) The court may summarily order the Secretary of State to reinstate the dissolved limited liability partnership or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as in other civil proceedings.

SECTION 81. Section 79-13-1102, Mississippi Code of 1972, is amended as follows:

79-13-1102. (a) Before transacting business in this state, a foreign limited liability partnership must file a statement of foreign qualification. The statement must contain:

(1) The name of the foreign limited liability partnership which satisfies the requirements of the state or other jurisdiction under whose law it is formed and ends with "Registered Limited Liability Partnership," "Limited Liability Partnership," "R.L.L.P.," "L.L.P.," "RLLP" or "LLP";

(2) The street address of the partnership's chief executive office * * *;

(3) The information required by Section 79-35-5(a); and

(4) A deferred effective date, if any.

(b) [Reserved]

(c) The status of a partnership as a foreign limited liability partnership is effective on the later of the filing of the statement of foreign qualification or a date specified in the statement. The status remains effective, regardless of changes in the partnership, until it is canceled pursuant to Section 79-13-105(d).

(d) An amendment or cancellation of a statement of foreign qualification is effective when it is filed or on a deferred effective date specified in the amendment or cancellation.

SECTION 82. The following shall be codified as Section 79-13-1106, Mississippi Code of 1972:

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79-13-1106. (a) The Secretary of State may commence a proceeding under Section 79-14-1107 to revoke the statement of foreign qualification of a foreign limited liability partnership authorized to transact business in this state if:

(1) [Reserved]

(2) The foreign limited liability partnership does not pay within sixty (60) days after they are due any fees, taxes, or penalties imposed by this chapter or other law;

(3) The foreign limited partnership is without a registered agent in this state for sixty (60) days or more;

(4) The limited partnership does not notify the Secretary of State within sixty (60) days that its registered agent has been changed or that its registered agent has resigned;

(5) The Secretary of State receives a duly authenticated certificate from the Secretary of State or other public official having custody of corporate records in the state or country under whose law the foreign limited liability partnership is organized stating that it has been dissolved or disappeared as the result of a merger; or

(6) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the limited liability partnership pursuant to this chapter.

(b) The Secretary of State may not revoke a statement of foreign qualification of a foreign limited liability partnership unless the Secretary of State sends the limited liability partnership notice of the revocation at least sixty (60) days before its effective date, by a record addressed to its registered agent, or to the limited liability partnership if the limited liability partnership fails to appoint and maintain a proper agent in this state. The notice must specify the cause for the revocation of the registration. The authority of the limited liability partnership to transact business in this state ceases on

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the effective date of the revocation unless the foreign limited liability partnership cures the failure before that date.

SECTION 83. The following shall be codified as Section 79-13-1107, Mississippi Code of 1972:

79-13-1107. (a) If the Secretary of State determines that one or more grounds exist under Section 79-14-1106 for revocation of a statement of foreign qualification, he shall serve the foreign limited liability partnership with written notice of his determination, except that such determination may be served by first-class mail.

(b) If the foreign limited liability partnership does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after service of the notice is perfected, the Secretary of State may revoke the foreign limited liability partnership's statement of foreign qualification by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the foreign limited liability partnership, except that such certificate may be served by first-class mail.

(c) The authority of a foreign limited liability partnership to transact business in this state ceases on the date shown on the certificate revoking its registration.

(d) The Secretary of State's revocation of a foreign limited liability partnership's registration appoints the Secretary of State the foreign limited liability partnership's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign limited liability partnership was authorized to transact business in this state. Service of process on the Secretary of State under this subsection is service on the foreign limited liability

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partnership. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign limited liability partnership at its principal office shown in its most recent communication received from the foreign limited liability partnership stating the current mailing address of its principal office, or, if none are on file, in its application for a registration.

(e) Revocation of a foreign limited liability partnership's statement of foreign qualification does not terminate the authority of the registered agent of the limited liability partnership.

SECTION 84. The following shall be codified as Section 79-13-1108, Mississippi Code of 1972:

79-13-1108. (a) A foreign limited liability partnership whose statement of foreign qualification is administratively revoked under Section 79-13-1107 may apply to the Secretary of State for reinstatement at any time after the effective date of such revocation. The application must:

(1) Recite the name of the limited liability partnership and the effective date of the administrative revocation;

(2) State that the ground or grounds for revocation either did not exist or have been eliminated;

(3) State that the limited liability partnership's name satisfies the requirements of Section 79-13-1002; and

(4) Contain a certificate from the Mississippi Department of Revenue reciting that the limited liability partnership has properly filed all reports and paid all taxes and penalties required by revenue laws of this state.

(b) If the Secretary of State determines that the application contains the information required by subsection (a) of this section and that the information is correct, he shall reinstate the registration, prepare a certificate that recites

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his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the limited liability partnership.

(c) When the reinstatement is effective:

(1) The reinstatement relates back to and takes effect as of the effective date of the administrative revocation;

(2) Any liability incurred by a member after the administrative revocation and before the reinstatement shall be determined as if the administrative revocation had never occurred; and

(3) The limited liability partnership may resume its business as if the administrative revocation had never occurred.

SECTION 85. The following shall be codified as Section 79-13-1109, Mississippi Code of 1972:

79-13-1109. (a) If the Secretary of State denies a foreign limited liability partnership's application for reinstatement of the statement of foreign qualification following administrative revocation, he shall serve the limited liability partnership with a written communication that explains the reason or reasons for denial.

(b) The limited liability partnership may appeal the denial of reinstatement to the Chancery Court of the First Judicial District of Hinds County or the chancery court of the county where the limited liability partnership is domiciled within thirty (30) days after service of the communication of denial is perfected. The limited liability partnership appeals by petitioning the court to set aside the revocation and attaching to the petition copies of the Secretary of State's communication of denial.

(c) The court may summarily order the Secretary of State to reinstate the registration of the limited liability partnership or may take other action the court considers appropriate.

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(d) The court's final decision may be appealed as in other civil proceedings.

SECTION 86. Section 79-14-104, Mississippi Code of 1972, is amended as follows:

79-14-104. * * * Each limited partnership shall have and maintain continuously in the State of Mississippi * * * an office, which may but need not be a place of its business in the State of Mississippi, at which shall be kept the records required by Section 79-14-105 to be maintained. * * *

* * *

SECTION 87. Section 79-14-201, Mississippi Code of 1972, is amended as follows:

79-14-201. (a) In order to form a limited partnership, a certificate of limited partnership must be signed and delivered to the office of the Secretary of State for filing. The certificate must set forth:

- (1) The name of the limited partnership;
- (2) The information required by Section 79-35-5(a);
- (3) The name and the street and mailing address of each general partner;
- (4) The latest date upon which the limited partnership is to dissolve; and
- (5) Any other matters the general partners determine to include therein.

(b) A limited partnership is formed at the date and time of the filing of the certificate of limited partnership in the office of the Secretary of State, as evidenced by such means as the Secretary of State may use for the purpose of recording the date and time of filing, or at any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section.

(c) For all purposes, a copy of the certificate of limited partnership duly certified by the Secretary of State is conclusive

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evidence of the formation of a limited partnership and prima facie evidence of its existence.

SECTION 88. Section 79-14-202, Mississippi Code of 1972, is amended as follows:

79-14-202. (a) A certificate of limited partnership is amended by delivery of a certificate of amendment thereto to the office of the Secretary of State for filing. The certificate shall set forth:

(1) The name of the limited partnership;

(2) The future effective date of the amendment, which must be a date certain, unless it is effective upon the filing of the certificate of amendment; and

(3) The amendment to the certificate.

(b) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate, or if appropriate, deliver to the Secretary of State for filing a statement of change of agent pursuant to Section 79-35-8.

(c) Notwithstanding the requirements of subsection (b) of this section, within thirty (30) days after the happening of any of the following events an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be delivered to the office of the Secretary of State for filing:

(1) The admission of a new general partner;

(2) The withdrawal of a general partner;

(3) The continuation of the business under Section 79-14-801 after an event of withdrawal of a general partner;

(4) A change in the name of the limited partnership; or

(5) A change in the street or mailing address of the office of the limited partnership. * * *

* * *

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(d) A certificate of limited partnership may be amended at any time for any other proper purpose the general partners may determine.

(e) Except as provided in Section 79-14-402(b), if an amendment to a certificate of limited partnership is delivered to the office of the Secretary of State in compliance with subsection (c) of this section, no person is subject to liability because the amendment was not filed earlier.

SECTION 89. Section 79-14-207, Mississippi Code of 1972, is amended as follows:

79-14-207. (a) If a certificate of limited partnership or certificate of amendment, dissolution or cancellation contains a false statement, one who suffers loss by reliance on the statement may recover damages for the loss from:

(1) A person who signed the certificate, or caused another to sign it on his behalf, and knew, and a general partner who knew or should have known, the statement to be false at the time the certificate was signed; and

(2) A general partner who knew or should have known after the filing of the certificate that an arrangement or other fact described in the certificate had changed, making the statement in the filed certificate inaccurate in any respect, within a reasonably sufficient time before the statements were relied upon to have enabled that general partner to amend, dissolve or cancel the certificate, * * * to file a petition for its amendment, dissolution or cancellation under Section 79-14-205, or to file a statement of change of agent pursuant to Section 79-35-8.

(b) Except as provided in Section 79-14-402(b), no person shall have any liability for failing pursuant to subsection (a)(2) of this section to cause the amendment, dissolution or cancellation of a certificate to be filed or failing to file a petition for its amendment, dissolution or cancellation pursuant

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to subsection (a)(2) of this section if the certificate of amendment, certificate of dissolution, certificate of cancellation or petition is filed by the Secretary of State within thirty (30) days of when that person knew or should have known to the extent provided in subsection (a)(2) of this section that the statement in the certificate was inaccurate in any respect.

SECTION 90. The following shall be codified as Section 79-14-809, Mississippi Code of 1972:

79-14-809. The Secretary of State may commence a proceeding under Section 79-14-810 to administratively dissolve a limited partnership if:

(a) The limited partnership does not pay within sixty (60) days after they are due any fees, taxes, or penalties imposed by this chapter or other law;

(b) [Reserved]

(c) The limited partnership is without a registered agent in this state for sixty (60) days or more;

(d) The limited partnership does not notify the Secretary of State within sixty (60) days that its registered agent has been changed or that its registered agent has resigned; or

(e) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the limited partnership pursuant to this chapter.

SECTION 91. The following shall be codified as Section 79-14-810, Mississippi Code of 1972:

79-14-810. (a) If the Secretary of State determines that one or more grounds exist under Section 79-14-809 for administratively dissolving a limited partnership, the Secretary of State shall serve the limited partnership with written notice of his determination except that such determination may be served by first-class mail.

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(b) If the limited partnership does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after service of the notice, the Secretary of State shall administratively dissolve the limited partnership by signing a certification of the dissolution that recites the ground for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve the limited partnership with a copy of the certificate, except that such certificate may be served by first-class mail.

(c) A limited partnership administratively dissolved continues its existence but may carry on only business necessary to wind up and liquidate its business and affairs under Section 79-14-803.

(d) The administrative dissolution of a limited partnership does not terminate the authority of its agent for service of process.

SECTION 92. The following shall be codified as Section 79-14-811, Mississippi Code of 1972:

79-14-811. (a) A limited partnership administratively dissolved under Section 79-14-810 may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application must:

(1) Recite the name of the limited partnership and the effective date of its administrative dissolution;

(2) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(3) State that the limited partnership's name satisfies the requirements of Section 79-14-102; and

(4) Contain a certificate from the Mississippi Department of Revenue reciting that all taxes owed by the limited partnership have been paid.

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(b) If the Secretary of State determines that the application contains the information required by subsection (a) of this section and that the information is correct, the Secretary of State shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement, file the original of the certificate, and serve the limited partnership with a copy of the certificate.

(c) When the reinstatement is effective:

(1) The reinstatement relates back to and takes effect as of the effective date of the administrative dissolution;

(2) Any liability incurred by a member after the administrative dissolution and before the reinstatement shall be determined as if the administrative dissolution had never occurred; and

(3) The limited partnership may resume its business as if the administrative dissolution had never occurred.

SECTION 93. The following shall be codified as Section 79-14-812, Mississippi Code of 1972:

79-14-812. (a) If the Secretary of State denies a limited partnership's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited partnership with a record that explains the reason or reasons for denial.

(b) The limited partnership may appeal the denial of reinstatement to the Chancery Court of the First Judicial District of Hinds County or the chancery court of the county where the limited partnership is domiciled within thirty (30) days after service of the notice of denial is perfected. The limited partnership appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the Secretary of State's certificate of dissolution, the limited partnership's

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application for reinstatement, and the Secretary of State's notice of denial.

(c) The court may summarily order the Secretary of State to reinstate the dissolved limited partnership or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as in other civil proceedings.

SECTION 94. Section 79-14-902, Mississippi Code of 1972, is amended as follows:

79-14-902. Before transacting business in this state, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall deliver to the Office of the Secretary of State for filing one (1) original of an application for registration as a foreign limited partnership, signed by a general partner and setting forth:

(1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state;

(2) The state and date of its formation;

(3) The information required by Section 79-35-5(a);

(4) [Reserved]

(5) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, the address of the principal office of the foreign limited partnership;

(6) The name and mailing and street address of each general partner; and

(7) The mailing and street address of the office at which is kept a list of the names and addresses of the limited partners and their contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is cancelled.

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SECTION 95. The following shall be codified as Section 79-14-910, Mississippi Code of 1972:

79-14-910. (a) The Secretary of State may commence a proceeding under Section 79-14-911 to revoke the registration of a foreign limited partnership authorized to transact business in this state if:

(1) [Reserved]

(2) The foreign limited partnership does not pay within sixty (60) days after they are due any fees, taxes, or penalties imposed by this chapter or other law;

(3) The foreign limited partnership is without a registered agent in this state for sixty (60) days or more;

(4) The limited partnership does not notify the Secretary of State within sixty (60) days that its registered agent has been changed or that its registered agent has resigned;

(5) The Secretary of State receives a duly authenticated certificate from the Secretary of State or other public official having custody of corporate records in the state or country under whose law the foreign limited partnership is organized stating that it has been dissolved or disappeared as the result of a merger; or

(6) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the limited partnership pursuant to this chapter.

(b) The Secretary of State may not revoke a registration of a foreign limited partnership unless the Secretary of State sends the limited partnership notice of the revocation at least sixty (60) days before its effective date, by a record addressed to its registered agent, or to the limited partnership if the limited partnership fails to appoint and maintain a proper agent in this state. The notice must specify the cause for the revocation of the registration. The authority of the limited partnership to transact business in this state ceases on the effective date of

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the revocation unless the foreign limited partnership cures the failure before that date.

SECTION 96. The following shall be codified as Section 79-14-911, Mississippi Code of 1972:

79-14-911. (a) If the Secretary of State determines that one or more grounds exist under Section 79-14-910 for revocation of a registration, he shall serve the foreign limited partnership with written notice of his determination, except that such determination may be served by first-class mail.

(b) If the foreign limited partnership does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after service of the notice is perfected, the Secretary of State may revoke the foreign limited partnership's registration by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the foreign limited partnership, except that such certificate may be served by first-class mail.

(c) The authority of a foreign limited partnership to transact business in this state ceases on the date shown on the certificate revoking its registration.

(d) The Secretary of State's revocation of a foreign limited partnership's registration appoints the Secretary of State the foreign limited partnership's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign limited partnership was authorized to transact business in this state. Service of process on the Secretary of State under this subsection is service on the foreign limited partnership. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign limited partnership at its principal office shown in its

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most recent communication received from the limited partnership stating the current mailing address of its principal office, or, if none are on file, in its application for registration.

(e) Revocation of a foreign limited partnership's registration does not terminate the authority of the registered agent of the limited partnership.

SECTION 97. The following shall be codified as Section 79-14-912, Mississippi Code of 1972:

79-14-912. (a) A foreign limited partnership whose registration is administratively revoked under Section 79-14-911 may apply to the Secretary of State for reinstatement at any time after the effective date of such revocation. The application must:

(1) Recite the name of the limited partnership and the effective date of the administrative revocation;

(2) State that the ground or grounds for revocation either did not exist or have been eliminated;

(3) State that the limited partnership's name satisfies the requirements of Section 79-14-102; and

(4) Contain a certificate from the Mississippi Department of Revenue reciting that the limited partnership has properly filed all reports and paid all taxes and penalties required by revenue laws of this state.

(b) If the Secretary of State determines that the application contains the information required by subsection (a) of this section and that the information is correct, he shall reinstate the registration, prepare a certificate that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the limited partnership.

(c) When the reinstatement is effective:

(1) The reinstatement relates back to and takes effect as of the effective date of the administrative revocation;

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(2) Any liability incurred by a member after the administrative revocation and before the reinstatement shall be determined as if the administrative revocation had never occurred; and

(3) The limited partnership may resume its business as if the administrative revocation had never occurred.

SECTION 98. The following shall be codified as Section 79-14-913, Mississippi Code of 1972:

79-14-913. (a) If the Secretary of State denies a foreign limited partnership's application for reinstatement of the registration following administrative revocation, he shall serve the limited partnership with a written communication that explains the reason or reasons for denial.

(b) The limited partnership may appeal the denial of reinstatement to the Chancery Court of the First Judicial District of Hinds County or the chancery court of the county where the limited partnership is domiciled within thirty (30) days after service of the communication of denial is perfected. The limited partnership appeals by petitioning the court to set aside the revocation and attaching to the petition copies of the Secretary of State's communication of denial.

(c) The court may summarily order the Secretary of State to reinstate the registration of the limited partnership or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as in other civil proceedings.

SECTION 99. Section 79-14-1104, Mississippi Code of 1972, is amended as follows:

79-14-1104. Pursuant to this chapter, the Secretary of State shall charge and collect a fee for:

(a) Filing of Reservation of Partnership Name....\$25.00

(b) [Reserved]

(c) [Reserved]

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(d) Filing of Certificate of Limited Partnership.....	50.00
(e) Filing of Amendment to Certificate of Limited Partnership.....	50.00
(f) Filing of Certificate of Dissolution.....	25.00
(g) Filing of Certificate of Cancellation.....	25.00
(h) Filing of Restated Certificate of Limited Partnership or Amended and Restated Certificate of Limited Partnership.....	25.00
(i) Filing of Certificate of Withdrawal.....	25.00
(j) Filing of Application for Registration of Foreign Limited Partnership.....	250.00
(k) Filing of Certificate Correcting Application for Registration of Foreign Limited Partnership.....	50.00
(l) Filing of Certificate of Cancellation of Registration of Foreign Limited Partnership.....	25.00
(m) <u>Certificate of Administrative Dissolution.....</u>	<u>No fee</u>
(n) <u>Filing of Application for Reinstatement Following Administrative Dissolution.....</u>	<u>50.00</u>
(o) <u>Certificate of Revocation of Registration to Transact Business.....</u>	<u>No fee</u>
(p) <u>Filing of Application for Reinstatement Following Administrative Revocation.....</u>	<u>100.00</u>

SECTION 100. Section 79-15-109, Mississippi Code of 1972, is amended as follows:

79-15-109. A foreign investment trust, in order to procure a certificate of authority to transact business in this state, shall make application therefor to the Secretary of State, which application shall set forth:

(a) The name of the foreign investment trust and the state or country under the laws of which it is organized.

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(b) If the name of the foreign investment trust does not contain the words "investment trust," then the name containing the words "investment trust" which it elects to use in this state.

(c) The date of declaration of trust and the period of duration of the trust.

(d) The address of the principal office of the foreign investment trust in the state or country under the laws of which it is organized.

(e) The information required by Section 79-35-5(a).

(f) The purpose or purposes of the foreign investment trust which it proposes to pursue in the transaction of business in this state.

(g) The names and respective addresses of the trustees of the foreign investment trust.

(h) A statement of the aggregate number of shares of beneficial interest which the foreign investment trust has authority to issue and the unit value in dollars to be received by the trust for the issuance of each of such shares.

(i) A statement of the aggregate number of issued shares of beneficial interest.

(j) Such additional information as may be necessary or appropriate in order to enable the Secretary of State to determine whether such corporation is entitled to a certificate of authority to transact business in this state and to determine and assess the fees payable as in Section 79-15-135 prescribed.

Such application shall be made on forms prescribed and furnished by the Secretary of State and shall be executed in duplicate by at least three (3) of the trustees and verified.

SECTION 101. Section 79-15-129, Mississippi Code of 1972, is amended as follows:

79-15-129. The certificate of authority of a foreign investment trust to transact business in this state may be revoked

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by the Secretary of State upon the conditions prescribed in this section when:

(a) The foreign investment trust has failed to pay any fees prescribed by Sections 79-15-101 through 79-15-139 when they have become due and payable; * * *

(b) The foreign investment trust has failed to appoint and maintain a registered agent in this state as required by Section 79-15-115; * * *

(c) The foreign investment trust has failed, after change of its * * * registered agent, to file in the Office of the Secretary of State a statement of such change as required by Section 79-35-8; * * *

(d) The foreign investment trust has failed to file in the Office of the Secretary of State any amendment to its declaration of trust within the time prescribed by Section 79-15-121; or

(e) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such foreign investment trust pursuant to Sections 79-15-101 through 79-15-139.

No certificate of authority of a foreign investment trust shall be revoked by the Secretary of State unless (1) he shall have given the foreign investment trust not less than sixty (60) days' notice thereof by mail as provided by Section 79-35-13, and (2) the foreign investment trust shall fail prior to revocation to pay such fees, or file the required statement of change of registered agent * * *, or file such articles of amendment or correct such misrepresentation.

SECTION 102. Section 79-15-131, Mississippi Code of 1972, is amended as follows:

79-15-131. Upon revoking any such certificate of authority, the Secretary of State shall:

(a) Issue a certificate of revocation in duplicate.

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(b) File one (1) of such certificates in his office.

(c) Mail to such foreign investment trust as provided in Section 79-35-13 a notice of such revocation accompanied by one (1) of such certificates.

Upon issuance of such certificate of revocation, the authority of the foreign investment trust to transact business in this state shall cease.

SECTION 103. Section 79-15-135, Mississippi Code of 1972, is amended as follows:

79-15-135. The Secretary of State shall charge and collect from foreign investment trust for:

(a) The fees required by Section 79-35-3.

(b) Filing an application of a foreign investment trust for a certificate of authority to transact business in this state and issuing a certificate of authority, One Hundred Dollars (\$100.00).

(c) Filing an application of a foreign investment trust for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority, Twenty Dollars (\$20.00).

(d) Filing a copy of an amendment to the articles of incorporation of a foreign investment trust holding a certificate of authority to transact business in this state, Twenty Dollars (\$20.00).

(e) Filing an application for withdrawal of a foreign investment trust and issuing a certificate of withdrawal, Five Dollars (\$5.00).

(f) Filing any other statement or report of a foreign investment trust, Five Dollars (\$5.00).

(g) For furnishing a certified copy of any document, instrument, or paper relating to a foreign investment trust, Sixty Cents (60¢) per page and Two Dollars (\$2.00) for the certificate

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and affixing the seal thereto, with a minimum charge of Three Dollars (\$3.00).

(h) At the time of any service of process on him as resident agent of a foreign investment trust, Five Dollars (\$5.00), which amount may be recovered as taxable cost by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

SECTION 104. Section 79-16-11, Mississippi Code of 1972, is amended as follows:

79-16-11. (1) A foreign business trust, in order to procure a certificate of authority to transact business in this state, shall make application therefor to the Secretary of State, which application shall set forth:

(a) The name of the foreign business trust and the state or country under the laws of which it is organized;

(b) The date of declaration of trust and the period of duration of the trust;

(c) The address of the principal office of the foreign business trust in the state or country under the laws of which it is organized;

(d) The information required by Section 79-35-5(a);

(e) The purpose or purposes of the foreign business trust which it proposes to pursue in the transaction of business in this state;

(f) The names and respective addresses of the trustees of the foreign business trust; and

(g) A statement of the aggregate number of shares of beneficial interest which the foreign business trust has authority to issue and the unit value in dollars to be received by the trust for the issuance of each of such shares.

(2) Such application shall be made on forms prescribed and furnished by the Secretary of State and shall be executed by at least one (1) of the trustees.

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(3) A business trust shall deliver with the completed application a certificate of existence, or a document of similar import, duly authenticated by the Secretary of State or other official having custody of trust records in the state or country under whose law it is created.

SECTION 105. Section 79-16-27, Mississippi Code of 1972, is amended as follows:

79-16-27. (1) The certificate of authority of a foreign business trust to transact business in this state may be revoked by the Secretary of State upon the condition prescribed in this section when:

(a) The foreign business trust has failed to pay any fees prescribed by law when they become due and payable;

(b) The foreign business trust has failed to appoint and maintain a registered agent in this state;

(c) The foreign business trust has failed, after change of its registered office or registered agent, to file in the Office of Secretary of State an appropriate filing as required by the Mississippi Registered Agents Act, Chapter 35, Title 79, Mississippi Code of 1972; or

(d) A misrepresentation has been made of any material matter in an application, report, affidavit or other document submitted by such foreign business trust pursuant to law.

(2) No certificate of authority of a foreign business trust shall be revoked by the Secretary of State unless:

(a) He shall have given the foreign business trust not less than sixty (60) days' notice thereof by mail addressed to its registered office in this state; and

(b) The foreign business trust shall fail prior to revocation to pay such fees, any taxes owed or file the required appropriate filing as required by the Mississippi Registered Agents Act, Chapter 35, Title 39, Mississippi Code of 1972, to

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report a change of registered agent or address of registered agent, or file such amendment or correct such misrepresentation.

SECTION 106. Section 79-16-29, Mississippi Code of 1972, is amended as follows:

79-16-29. (1) Upon revoking such certificate of authority, the Secretary of State shall:

(a) Issue a certificate of revocation;

(b) File one (1) of such certificates in his office;

and

(c) Mail to such foreign business trust to its registered agent as provided in Section 79-35-13 a notice of such revocation accompanied by one (1) of such certificates.

(2) Upon issuance of such certificate of revocation, the authority of the foreign business trust to transact business in this state shall cease.

SECTION 107. Section 79-16-33, Mississippi Code of 1972, is amended as follows:

79-16-33. The Secretary of State shall charge and collect from foreign business trust for:

(1) Filings required by the Mississippi Registered Agents Act, the fees required by Section 79-35-3;

(2) Filing an application of a foreign business trust for a certificate of authority to transact business in this state and issuing a certificate of authority, Two Hundred Fifty Dollars (\$250.00);

(3) Filing a certificate of correction or amendment of a foreign business trust authorized to transact business in this state, Fifty Dollars (\$50.00);

(4) Filing an application for withdrawal of a foreign business trust and issuing a certificate of withdrawal, Twenty-five Dollars (\$25.00);

(5) Filing any other statement or report of a foreign business trust, Twenty-five Dollars (\$25.00);

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(6) For furnishing a certified copy of any document, instrument or paper relating to a foreign business trust, One Dollar (\$1.00) per page and Ten Dollars (\$10.00) for the certificate and affixing the seal thereto; and

(7) At the time of any service of process on him as resident agent of a foreign business trust, Twenty-five Dollars (\$25.00), which amount may be recovered as taxable cost by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

SECTION 108. Section 79-29-201, Mississippi Code of 1972, is amended as follows:

79-29-201. (1) In order to form a limited liability company, a certificate of formation must be signed and delivered to the Office of the Secretary of State. The certificate must set forth:

- (a) The name of the limited liability company;
- (b) The information required by Section 79-35-5(a); and
- (c) If the limited liability company is to have a specific date of dissolution, the latest date upon which the limited liability company is to dissolve.

(2) The certificate of formation may set forth any other matters the members determine to include therein.

(3) A limited liability company is formed at the date and time of the filing of the certificate of formation by the Secretary of State, as evidenced by such means as the Secretary of State may use for the purpose of recording the date and time of filing, or at any later date or time specified in the certificate of formation if, in either case, the certificate of formation so filed substantially complies with the requirements of this chapter. A delayed effective date specified in a certificate of formation may not be later than the ninetieth day after the date and time it is filed by the Secretary of State.

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(4) For all purposes, a copy of the certificate of formation duly certified by the Secretary of State is conclusive evidence of the formation of a limited liability company and prima facie evidence of its existence.

SECTION 109. Section 79-29-209, Mississippi Code of 1972, is amended as follows:

79-29-209. If a person required by this Article 2 to sign a certificate fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the chancery court of the county in which the principal office * * * is located or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the limited liability company does not have a principal office in this state to direct the signing of the certificate. If the court finds that it is proper for the certificate to be signed and that any person so designated has failed or refused to sign the certificate, it shall order appropriate relief, including an order to the Secretary of State to file an appropriate certificate.

SECTION 110. Section 79-29-211, Mississippi Code of 1972, is amended as follows:

79-29-211. (1) The certificate of formation and any certificate of amendment, dissolution, correction or merger and any restated certificate * * * must be delivered to the Office of the Secretary of State. A person who signs a certificate as an agent or fiduciary need not exhibit evidence of the person's authority as a prerequisite to filing by the Secretary of State. Unless the Secretary of State finds that a certificate is not acceptable for filing, upon receipt of all filing fees required by Section 79-29-1203 and delivery of the certificate the Secretary of State shall:

(a) Certify that the certificate has been filed in the Secretary of State's office by endorsing upon the signed certificate the word "Filed" and the date and time of the filing.

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This endorsement is conclusive evidence of the date and time of its filing in absence of actual fraud;

(b) File the certificate; and

(c) Return a copy to the person who delivered it for filing or that person's representative with an acknowledgment of the date and time of filing.

(2) Upon the filing of a certificate of amendment * * * or upon the future effective date of a certificate of amendment (or judicial decree thereof) or an amended and restated certificate, as provided for therein, the certificate of formation shall be amended, corrected or restated as set forth therein. Upon the filing of a certificate of dissolution (or a judicial decree thereof) by the Secretary of State or upon the future effective date of a certificate of dissolution (or a judicial decree thereof), the certificate of formation is dissolved.

(3) Each certificate delivered to the Office of the Secretary of State for filing must be typewritten or printed, or, if electronically transmitted, it must be in a format that can be retrieved or reproduced by the Secretary of State in typewritten or printed form, and must be in the English language. A limited liability company name need not be in English if written in English letters or Arabic or Roman numerals.

(4) Refused documents shall be returned by the Secretary of State to the limited liability company or its representative within ten (10) days after the document was delivered, together with a brief, written explanation of the reason for the refusal.

(a) If the Secretary of State refuses to file a document, the limited liability company may appeal the refusal to the chancery court of the county where the limited liability company's principal office is or will be located. The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the Secretary of State's explanation of the refusal to file.

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(b) The court may summarily order the Secretary of State to file the document or take other action the court considers appropriate.

(c) The court's final decision may be appealed as in other civil proceedings.

(5) A certificate from the Secretary of State delivered with a copy of the document filed by the Secretary of State is conclusive evidence that the original document is on file with the Secretary of State.

SECTION 111. Section 79-29-231, Mississippi Code of 1972, is amended as follows:

79-29-231. (1) The certificate of formation or written operating agreement may eliminate, expand or restrict the appraisal rights granted in this section and may vary, modify, eliminate or expand any of the provisions of this section.

(2) **Definitions.** In this section:

(a) "Entitled persons" means all owners of financial interests. Financial interests may be owned by members and may also be owned by persons who are not members of the limited liability company. Members of the limited liability company who have no financial interests in the limited liability company are not entitled to appraisal rights pursuant to this section.

(b) "Fair value" means the value of the financial interests of the limited liability company determined:

(i) Immediately before the effectuation of the action to which the entitled person objects;

(ii) Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and

(iii) Without discounting for lack of marketability or minority status.

(3) **Right to appraisal.** (a) Unless otherwise provided in the certificate of formation or written operating agreement or

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other written agreement each entitled person is entitled to appraisal rights, and to obtain payment of the fair value of the entitled person's financial interest in the event of any of the following actions:

(i) Consummation of a merger to which the limited liability company is a party;

(ii) Consummation of a sale, lease, exchange, or other disposition of assets if the disposition would leave the limited liability company without a significant continuing business activity. If a limited liability company retains a business activity that represented at least twenty-five percent (25%) of total assets at the end of the most recently completed fiscal year, and twenty-five percent (25%) of either income from continuing operations or revenues from continuing operations for that fiscal year, in each case of the limited liability company and its subsidiaries on a consolidated basis, the limited liability company will conclusively be deemed to have retained a significant continuing business activity;

(iii) Any other action to the extent provided by the certificate of formation or written operating agreement.

(b) An entitled person may not challenge a completed action for which appraisal rights are available unless such action:

(i) Was not effectuated in accordance with the applicable provisions of this chapter or the limited liability company's certificate of formation or operating agreement; or

(ii) Was procured as a result of fraud or material misrepresentation.

(4) **Notice of appraisal rights.** If a proposed action described in subsection (3) of this section is to be submitted to a vote, the meeting notice must state that the limited liability company has concluded that entitled persons are entitled to assert appraisal rights under this section and a copy of this section or

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a copy of the appraisal rights and procedures as provided in the written operating agreement, as applicable, must accompany the meeting notice sent to the entitled persons.

(5) **Notice of intent to demand payment.** (a) If a proposed action requiring appraisal rights under subsection (3)(a) of this section is submitted to a vote, entitled persons who wish to assert appraisal rights with respect to any class or series of financial interests:

(i) Must deliver to the limited liability company before the vote is taken written notice of the person's intent to demand payment if the proposed action is effectuated; and

(ii) Must not vote, or cause or permit to be voted, any of the person's financial interests in favor of the proposed action.

(b) An entitled person who does not satisfy the requirements of subsection (5)(a) of this section is not entitled to payment under this section.

(6) **Appraisal notice and form.** (a) If a proposed action requiring appraisal rights under subsection (3) of this section becomes effective, the limited liability company must deliver a written appraisal notice and form required by this subsection (6) to all entitled persons who satisfied the requirements of subsection (5) of this section.

(b) The appraisal notice must be sent no earlier than the date the action became effective and no later than ten (10) days after such date and must:

(i) Supply a form that specifies the date of the first announcement to entitled persons of the principal terms of the proposed action and requires the person asserting appraisal rights to certify: 1. whether the entitled person acquired ownership of the interests for which appraisal rights are asserted before that date; and 2. that the person did not vote for the transaction;

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(ii) State:

1. Where the form must be sent and where certificates for certificated interests must be deposited and the date by which those certificates must be deposited, which date may not be earlier than the date for receiving the required form under subsection (6)(b)(ii)2 of this section;

2. A date by which the limited liability company must receive the form which date may not be fewer than forty (40) nor more than sixty (60) days after the date the subsection (6)(a) appraisal notice and form are sent, and state that the person shall have waived the right to demand appraisal with respect to the interests unless the form is received by the limited liability company by such specified date;

3. The limited liability company's estimate of the fair value of the financial interests;

4. That, if requested in writing, the limited liability company will provide to the person so requesting, within ten (10) days after the date specified in subsection (6)(b)(ii)2 of this section, the number of persons who return the forms by the specified date and the aggregate interests owned by them; and

5. The date by which the notice to withdraw under subsection (7) must be received, which date must be within twenty (20) days after the date specified in subsection (6)(b)(ii)2 of this section; and

(c) Be accompanied by a copy of this section or by a copy of the appraisal rights and procedures as provided in the written operating agreement, as applicable.

(7) **Perfection of rights; right to withdraw.** (a) An entitled person who receives notice pursuant to subsection (6) of this section and who wishes to exercise appraisal rights must certify on the form sent by the limited liability company whether the entitled person acquired ownership of the person's financial interests before the date required to be set forth in the notice

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pursuant to subsection (6)(b) of this section. If an entitled person fails to make this certification, the limited liability company may elect to treat the entitled person's financial interests as after-acquired interests under subsection (9) of this section. In addition, an entitled person who wishes to exercise appraisal rights must execute and return the form and, in the case of certificated interests, deposit the entitled person's certificates in accordance with the terms of the notice by the date referred to in the notice pursuant to subsection (6)(b)(ii)2 of this section. Once an entitled person deposits that person's certificates or, in the case of uncertificated interests, returns the executed forms, that entitled person loses all rights as a member or owner of a financial interest, unless the entitled person withdraws pursuant to subsection (7)(b) of this section.

(b) An entitled person who has complied with subsection (7)(a) of this section may nevertheless decline to exercise appraisal rights and withdraw from the appraisal process by so notifying the limited liability company in writing by the date set forth in the appraisal notice pursuant to subsection (6)(b)(ii)5 of this section. An entitled person who fails to so withdraw from the appraisal process may not thereafter withdraw from the appraisal process without the limited liability company's written consent.

(c) An entitled person who does not execute and return the form and, in the case of certificated interests, deposit that person's certificates where required, each by the date set forth in the notice described in subsection (6)(b)(ii)2 of this section, shall not be entitled to payment under this subsection.

(8) **Payment.** (a) Except as provided in subsection (7) of this section, within thirty (30) days after the form required by subsection (6)(b)(ii)2 of this section is due, the limited liability company shall pay in cash to those entitled persons who complied with subsection (7)(a) of this section the amount the

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limited liability company estimates to be the fair value of their financial interests, plus interest at the legal rate.

(b) The payment to each person pursuant to subsection (8)(a) of this section must be accompanied by:

(i) Financial statements of the limited liability company that issued the financial interests to be appraised, consisting of a balance sheet as of the end of a fiscal year ending not more than sixteen (16) months before the date of payment, an income statement for that year, a statement of changes in equity for that year, and the latest available interim financial statements, if any;

(ii) A statement of the limited liability company's estimate of the fair value of the financial interests, which estimate must equal or exceed the limited liability company's estimate given pursuant to subsection (6)(b)(ii)3 of this section;

(iii) A statement that persons described in this subsection (8) have the right to demand further payment under subsection (10) of this section and that if any such person does not do so within the time period specified therein, the person shall be deemed to have accepted the payment in full satisfaction of the limited liability company's obligations under this section.

(9) **After-acquired interests.** (a) A limited liability company may elect to withhold payment required by subsection (8) of this section from any entitled person who did not certify that ownership of all of the entitled person's financial interests for which appraisal rights are asserted was acquired before the date set forth in the appraisal notice sent pursuant to subsection (6)(b)(i) of this section.

(b) If the limited liability company elected to withhold payment under subsection (9)(a) of this section, it must, within thirty (30) days after the form required by subsection

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(6) (b) (ii) 2 of this section is due, notify all entitled persons who are described in subsection (9) (a) of this section:

(i) Of the information required by subsection (8) (b) (i) of this section;

(ii) Of the limited liability company's estimate of fair value pursuant to subsection (8) (b) (ii) of this section;

(iii) That they may accept the limited liability company's estimate of fair value, plus interest at the legal rate, in full satisfaction of their demands, or demand appraisal under subsection (10) of this section;

(iv) That those entitled persons who wish to accept the offer must so notify the limited liability company of the person's acceptance of the limited liability company's offer within thirty (30) days after receiving the offer; and

(v) That those entitled persons who do not satisfy the requirements for demanding appraisal under subsection (10) of this section shall be deemed to have accepted the limited liability company's offer.

(c) Within ten (10) days after receiving the entitled person's acceptance pursuant to subsection (9) (b) of this section, the limited liability company must pay in cash the amount it offered under subsection (9) (b) (ii) of this section to each person who agreed to accept the limited liability company's offer in full satisfaction of the person's demand.

(d) Within forty (40) days after sending the notice described in subsection (9) (b) of this section, the limited liability company must pay in cash the amount it offered to pay under subsection (8) (b) of this section to each entitled person described in subsection (9) (b) (ii) of this section.

(10) Procedure if entitled person dissatisfied with payment or offer. (a) An entitled person paid pursuant to subsection (8) of this section who is dissatisfied with the amount of the payment must notify the limited liability company in writing of that

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person's estimate of the fair value of the financial interests and demand payment of that estimate plus interest at the legal rate less any payment under subsection (8) of this section. An entitled person offered payment under subsection (9) of this section who is dissatisfied with that offer must reject the offer and demand payment of the person's stated estimate of the fair value of the financial interests plus interest at the legal rate.

(b) An entitled person who fails to notify the limited liability company in writing of that entitled person's demand to be paid the entitled person's stated estimate of the fair value plus interest at the legal rate under subsection (10)(a) of this section within thirty (30) days after receiving the limited liability company's payment or offer of payment under subsection (8) or (9) of this section, respectively, waives the right to demand payment under this subsection (10) and shall be entitled only to the payment made or offered pursuant to those respective subsections.

(11) **Court action.** (a) If an entitled person makes demand for payment under subsection (10) of this section which remains unsettled, the limited liability company shall commence a proceeding within sixty (60) days after receiving the payment demand and petition the court to determine the fair value of the financial interests and accrued interest at the legal rate. If the limited liability company does not commence the proceeding within the sixty-day period, it shall pay in cash to each the entitled person the amount the entitled person demanded pursuant to subsection (10)(a) of this section plus interest at the legal rate.

(b) The limited liability company shall commence the proceeding in the chancery court of the county where the limited liability company's principal office is located. If the limited liability company is a foreign limited liability company * * *, it shall commence the proceeding in the county in this state where

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the principal office of the domestic limited liability company merged with the foreign limited liability company was located at the time of the transaction.

(c) The limited liability company shall make all entitled persons whose demands remain unsettled, whether or not residents of this state, parties to the proceeding as in an action against their interests, and all parties must be served with a copy of the complaint. Nonresidents may be served as otherwise provided by law.

(d) The jurisdiction of the court in which the proceeding is commenced under subsection (11)(b) of this section is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have the powers described in the order appointing them, or in any amendment to it. The entitled persons demanding appraisal rights are entitled to the same discovery rights as parties in other civil proceedings. There shall be no right to a jury trial.

(e) Each entitled person made a party to the proceeding is entitled to judgment: (i) for the amount, if any, by which the court finds the fair value of the entitled person's financial interests, plus interest at the legal rate, exceeds the amount paid by the limited liability company to the entitled person for such financial interests; or (ii) for the fair value, plus interest at the legal rate, of the entitled person's financial interests for which the limited liability company elected to withhold payment under subsection (9) of this section.

(12) Court costs and counsel fees. (a) The court in an appraisal proceeding commenced under subsection (11) of this section shall determine all costs of the proceeding including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the limited liability company, except that the court may assess costs against

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all or some of the entitled persons demanding appraisal, in amounts the court finds equitable, to the extent the court finds such persons acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this subsection.

(b) The court in an appraisal proceeding may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable:

(i) Against the limited liability company and in favor of any or all entitled persons demanding appraisal if the court finds the limited liability company did not substantially comply with the requirements of subsection (4), (6), (8) or (9) of this section; or

(ii) Against either the limited liability company or an entitled person demanding appraisal, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this subsection.

(c) If the court in an appraisal proceeding finds that the services of counsel for any entitled person were of substantial benefit to other persons similarly situated, and that the fees for those services should not be assessed against the limited liability company, the court may award to such counsel reasonable fees to be paid out of the amounts awarded the entitled persons who were benefited.

(d) To the extent the limited liability company fails to make a required payment pursuant to subsection (8), (9) or (10) of this section, the entitled person may sue directly for the amount owed and, to the extent successful, shall be entitled to recover from the limited liability company all costs and expenses of the suit, including counsel fees.

SECTION 112. Section 79-29-803, Mississippi Code of 1972, is amended as follows:

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79-29-803. (1) On application by or for a member, the chancery court for the county in which the principal office of the limited liability company is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the limited liability company does not have a principal office in this state, may decree dissolution of a limited liability company:

(a) Whenever it is not reasonably practicable to carry on the business in conformity with the certificate of formation or the operating agreement;

(b) Whenever the managers or the members in control of the limited liability company have been guilty of or have knowingly countenanced persistent and pervasive fraud or abuse of authority, or the property of the limited liability company is being misapplied or wasted by such persons; or

(c) In a proceeding by the limited liability company to have its voluntary dissolution continued under court supervision.

(2) If a limited liability company has no members due to the expulsion or withdrawal of the last remaining member pursuant to the terms of the certificate of formation or the written operating agreement and the certificate of formation or the written operating agreement of the limited liability company prohibits the substitution of a member, then an officer, manager or any assignee or owner of a financial interest of the limited liability company or the personal representative of the member may apply to the chancery court to dissolve the limited liability company; * * * however, * * * if there are no persons that hold the above-described positions, then any creditor of the limited liability company or the Secretary of State may apply to the chancery court to dissolve the limited liability company.

(3) A court in a judicial proceeding brought to dissolve a limited liability company may appoint one or more receivers to wind-up and liquidate, or one or more custodians to manage, the business and affairs of the limited liability company. The court

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appointing a receiver or custodian has jurisdiction over the limited liability company and all its property wherever located. The court may appoint an individual or entity (authorized to transact business in this state) as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time. Among other powers:

(a) The receiver (i) may dispose of all or any part of the assets of the limited liability company wherever located, at a public or private sale, if authorized by the court; and (ii) may sue and defend in the receiver's own name as receiver of the limited liability company in all courts of this state; and

(b) The custodian may exercise all the powers of the limited liability company, through or in place of its members, managers or officers, to the extent necessary to manage the affairs of the limited liability company in the best interests of its members and creditors.

The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interests of the limited liability company, its members and creditors.

The court from time to time during the receivership or custodianship may order compensation paid and expenses paid or reimbursed to the receiver or custodian from the assets of the limited liability company or proceeds from the sale of the assets.

SECTION 113. Section 79-29-819, Mississippi Code of 1972, is amended as follows:

79-29-819. (1) A dissolved limited liability company may publish notice of its dissolution pursuant to this section which requests that persons with claims against the limited liability company present them in accordance with the notice.

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(2) The notice must:

(a) Be published one time in a newspaper of general circulation in the county where the dissolved limited liability company's principal office * * * is or was last located, or in Hinds County if the limited liability company does or did not have a principal office in this state;

(b) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(c) State that a claim against the limited liability company not otherwise barred will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the latter of the publication of the notice or the filing of a certificate of dissolution with respect to the limited liability company.

(3) If the dissolved limited liability company publishes a newspaper notice in accordance with subsection (2) and files a certificate of dissolution pursuant to Section 79-29-205, the claim of each of the following claimants which is not otherwise barred is barred unless the claimant commences a proceeding to enforce the claim against the dissolved limited liability company within three (3) years after the latter of the publication date of the newspaper notice or the filing of the certificate of dissolution:

(a) A claimant who did not receive written notice under Section 79-29-817;

(b) A claimant whose claim was timely sent to the dissolved limited liability company but not acted on within the three-year period; and

(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(4) A claim may be enforced under this section:

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(a) Against the dissolved limited liability company, to the extent of its undistributed assets; or

(b) If the assets have been distributed in liquidation, against a member of the dissolved limited liability company to the extent of the member's pro rata share of the claim or the assets of the limited liability company distributed to the member in liquidation, whichever is less, but a member's total liability for all claims under this section may not exceed the total amount of assets distributed to the member, subject to Section 79-29-611(1).

SECTION 114. Section 79-29-823, Mississippi Code of 1972, is amended as follows:

79-29-823. (1) If the Secretary of State determines that one or more grounds exist under Section 79-29-821 for administratively dissolving a limited liability company, the Secretary of State shall serve the limited liability company with written notice of the determination under Section 79-35-13, except that such determination may be served by first-class mail.

(2) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after the service of the notice, the Secretary of State shall administratively dissolve the limited liability company by signing a certification of the administrative dissolution that recites the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate of administrative dissolution and serve the limited liability company with a copy of the certificate of administrative dissolution under Section 79-35-13, except that such certificate of administrative dissolution may be served by first-class mail.

SECTION 115. Section 79-29-825, Mississippi Code of 1972, is amended as follows:

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79-29-825. (1) A limited liability company administratively dissolved under Section 79-29-823 may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application must:

(a) Recite the name of the limited liability company and the effective date of its administrative dissolution;

(b) State that the ground or grounds for administrative dissolution either did not exist or have been eliminated; and

(c) State that the limited liability company's name satisfies the requirements of Section 79-29-109.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, the Secretary of State shall cancel the certificate of administrative dissolution and prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement, file the original of the certificate of reinstatement, and serve the limited liability company with a copy of the certificate of reinstatement under Section 79-35-13, except that such certificate of reinstatement may be served by first-class mail.

(3) When the reinstatement is effective:

(a) The reinstatement relates back to and takes effect as of the effective date of the administrative dissolution;

(b) Any liability incurred by the limited liability company or a member after the administrative dissolution and before the reinstatement shall be determined as if the administrative dissolution had never occurred; and

(c) The limited liability company may resume carrying on its business as if the administrative dissolution had never occurred.

SECTION 116. Section 79-29-827, Mississippi Code of 1972, is amended as follows:

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79-29-827. (1) If the Secretary of State denies a limited liability company's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited liability company under Section 79-35-13 with a record that explains the reason or reasons for denial, except that such record may be served by first-class mail.

(2) The limited liability company may appeal the denial of reinstatement to the Chancery Court of the First Judicial District of Hinds County * * * or the chancery court where the limited liability company is domiciled within thirty (30) days after service of the notice of denial is perfected. The limited liability company appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the Secretary of State's certificate of administrative dissolution, the limited liability company's application for reinstatement, and the Secretary of State's notice of denial.

(3) The court may summarily order the Secretary of State to reinstate the dissolved limited liability company or may take other action the court considers appropriate.

(4) The court's final decision may be appealed as in other civil proceedings.

SECTION 117. Section 79-29-913, Mississippi Code of 1972, is amended as follows:

79-29-913. (1) If the disqualified member does not accept the professional limited liability company's offer under Section 79-29-912(2) within the thirty-day period, the member during the following thirty-day period may deliver a written notice to the professional limited liability company demanding that it commence a proceeding to determine the fair value of the membership interest. The limited liability company may commence a proceeding at any time during the sixty (60) days following the effective date of its offer notice. If it does not do so, the member may commence a proceeding against the professional limited liability

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company to determine the fair value of the disqualified person's membership interest.

(2) The professional limited liability company or disqualified member shall commence the proceeding in the chancery court of the county where the professional limited liability company's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the professional limited liability company does not have a principal office in this state. The professional limited liability company shall make the disqualified person a party to the proceeding as in an action against the disqualified person's membership interest. The jurisdiction of the court in which the proceeding is commenced is plenary and exclusive.

(3) The court may appoint one or more persons as appraisers to receive evidence and recommend decision on the question of fair value. The appraisers have the power described in the order appointing them, or in any amendment to it.

(4) The disqualified member is entitled to judgment for the fair value of the disqualified person's membership interest determined by the court as of the date of death, disqualification or transfer, together with interest from that date at a rate found by the court to be fair and equitable.

(5) The court may order the judgment paid in installments determined by the court.

(6) "Fair value" means the value of the membership interest of the professional limited liability company determined:

(a) Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and

(b) Without discounting for lack of marketability or minority status.

SECTION 118. Section 79-29-923, Mississippi Code of 1972, is amended as follows:

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79-29-923. The Attorney General may commence a proceeding under Section 79-29-803 to dissolve a professional limited liability company if:

(a) The Secretary of State or a licensing authority with jurisdiction over a professional service described in the limited liability company's certificate of formation serves written notice on the limited liability company under Section 79-35-13 that it has violated or is violating a provision of this article;

(b) The limited liability company does not correct each alleged violation, or demonstrate to the reasonable satisfaction of the Secretary of State or licensing authority that it did not occur, within sixty (60) days after service of the notice is perfected under Section 79-35-13; and

(c) The Secretary of State or licensing authority certifies to the Attorney General a description of the violation, that it notified the limited liability company of the violation, and that the limited liability company did not correct it, or demonstrate that it did not occur, within sixty (60) days after perfection of service of the notice.

SECTION 119. Section 79-29-1003, Mississippi Code of 1972, is amended as follows:

79-29-1003. (1) Before transacting business in this state, a foreign limited liability company, including a foreign limited liability company formed to render professional services, shall register with the Secretary of State. In order to register, a foreign limited liability company shall deliver the application for registration of the foreign limited liability company to the Office of the Secretary of State for filing, signed by a person with authority to do so under the laws of the state, country or other jurisdiction of its formation who is either a member, manager or officer of the foreign limited liability company and setting forth:

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(a) The name of the foreign limited liability company which must meet the requirements of Section 79-29-1007 and, if different, the name under which it proposes to transact business in this state which must meet the requirements of Section 79-29-1007;

(b) The state or other jurisdiction and date of its formation and a statement that, as of the date of filing, the foreign limited liability company validly exists as a limited liability company under the laws of the jurisdiction of its formation;

(c) The information required by Section 79-35-13;

(d) [Reserved]

(e) The date on which the foreign limited liability company first did, or intends to do, business in the State of Mississippi;

(f) The address of the office required to be maintained in the state or other jurisdiction of its formation by the laws of that state or other jurisdiction or, if not so required, the address of the principal office of the foreign limited liability company;

(g) If the foreign limited liability company is to have a specific date of dissolution, the latest date upon which the foreign limited liability company is to dissolve; and

(h) Any other matters the manager or members determine to include therein.

The person signing the application shall state the person's name, the capacity in which the person signs and the street and mailing address of the person beneath or opposite the person's signature. A document required or permitted to be delivered to the Office of the Secretary of State for filing under this chapter which contains a copy of a signature, however made, is acceptable for filing by the Secretary of State.

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(2) The foreign limited liability company shall deliver with the completed application a certificate of existence, or a document of similar import, duly authenticated by the Secretary of State or other public official having custody of corporate records in the state or country under whose law it is formed.

SECTION 120. Section 79-29-1023, Mississippi Code of 1972, is amended as follows:

79-29-1023. (1) If the Secretary of State determines that one or more grounds exist under Section 79-29-1021 for administrative revocation of registration, the Secretary of State shall serve the foreign limited liability company with written notice of the determination under Section 79-35-13, except that such determination may be served by first-class mail.

(2) If the foreign limited liability company does not correct each ground for administrative revocation or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after the service of the notice, the Secretary of State may administratively revoke the foreign limited liability company's registration by signing a certificate of administrative revocation that recites the ground or grounds for administrative revocation and its effective date. The Secretary of State shall file the original of the certificate of administrative revocation and serve the foreign limited liability company with a copy of the certificate of administrative revocation under Section 79-35-13, except that such certificate of administrative revocation may be served by first-class mail.

(3) The authority of a foreign limited liability company to transact business in this state ceases on the date shown on the certificate of administrative revocation.

(4) The Secretary of State's administrative revocation of a foreign limited liability company's registration appoints the Secretary of State the foreign limited liability company's agent

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for service of process in any proceeding based on a cause of action which arose during the time the foreign limited liability company was authorized to transact business in this state. Service of process on the Secretary of State under this subsection is service on the foreign limited liability company. Upon receipt of process and the payment of the fee specified in Section 79-35-13, the Secretary of State shall mail a copy of the process to the foreign limited liability company at the office of its registered agent, or if the agent has resigned or cannot be located, at its principal office shown in its most recent communication received from the foreign limited liability company stating the current mailing address of its principal office, or, if none are on file, in its application for registration of foreign limited liability company.

(5) Administrative revocation of a foreign limited liability company's registration does not terminate the authority of the registered agent of the foreign limited liability company.

(6) The administrative revocation of the registration of a foreign limited liability company shall not impair the validity of any contract, deed, mortgage, security interest, lien or act of such foreign limited liability company or prevent the foreign limited liability company from defending any action, suit or proceeding with any court of this state.

(7) A member, manager or officer of a foreign limited liability company is not liable for the debts, obligations or liabilities of such foreign limited liability company solely by reason of the administrative revocation of the registration of a foreign limited liability company.

(8) A foreign limited liability company whose registration has been administratively revoked may not maintain any action, suit or proceeding in any court of this state until such foreign limited liability company's registration has been reinstated. An action, suit or proceeding may not be maintained in any court of

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this state by any successor or assignee of such foreign limited liability company on any right, claim or demand arising out of the transaction of business by a foreign limited liability company after the administrative revocation.

SECTION 121. Section 79-29-1025, Mississippi Code of 1972, is amended as follows:

79-29-1025. (1) A foreign limited liability company whose registration is administratively revoked under Section 79-29-1021 may apply to the Secretary of State for reinstatement at any time after the effective date of such administrative revocation. The application must:

(a) Recite the name of the foreign limited liability company and the effective date of the administrative revocation;

(b) State that the ground or grounds for administrative revocation either did not exist or have been eliminated; and

(c) State that the foreign limited liability company's name satisfies the requirements of Section 79-29-1007.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, the Secretary of State shall reinstate the registration of a foreign limited liability company, prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement, file the original of the certificate of reinstatement, and serve the foreign limited liability company with a copy of the certificate of reinstatement under Section 79-35-13, except that such certificate may be served by first-class mail.

(3) When the reinstatement is effective:

(a) The reinstatement relates back to and takes effect as of the effective date of the administrative revocation;

(b) Any liability incurred by the foreign limited liability company or a member after the administrative revocation

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and before the reinstatement shall be determined as if the administrative revocation had never occurred; and

(c) The foreign limited liability company may resume carrying on its business as if the administrative revocation had never occurred.

SECTION 122. Section 79-29-1203, Mississippi Code of 1972, is amended as follows:

79-29-1203. (1) No document required to be filed under this chapter shall be effective until the applicable fee required by this section is paid. The following fees shall be paid to and collected by the Secretary of State for the use of the State of Mississippi:

(a) Filing of Reservation of Limited Liability Company Name or Transfer of Reservation, Twenty-five Dollars (\$25.00).

(b) [Reserved]

(c) [Reserved]

(d) Filing of Certificate of Formation, Fifty Dollars (\$50.00).

(e) Filing of Amendment to Certificate of Formation, Fifty Dollars (\$50.00).

(f) Filing of Certificate of Dissolution, Fifty Dollars (\$50.00).

(g) Filing of Application for Registration of Foreign Limited Liability Company, Two Hundred Fifty Dollars (\$250.00) and Ten Dollars (\$10.00) for each day, but not to exceed a total of One Thousand Dollars (\$1,000.00) for each year the foreign limited liability company transacts business in this state without a registration as a foreign limited liability company.

(h) Filing of Certificate of Correction, Fifty Dollars (\$50.00).

(i) Filing of Certificate of Cancellation of Registration of Foreign Limited Liability Company, Fifty Dollars (\$50.00).

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- (j) Filing of an Annual Report of Domestic Limited Liability Company, (no fee).
 - (k) Filing of an Annual Report of Foreign Limited Liability Company, to be deposited in the Elections Support Fund created in Section 23-15-5, Two Hundred Fifty Dollars (\$250.00).
 - (l) Certificate of Administrative Dissolution, (no fee).
 - (m) Filing of Application for Reinstatement Following Administrative Dissolution, Fifty Dollars (\$50.00).
 - (n) Certificate of Administrative Revocation of Authority to Transact Business, (no fee).
 - (o) Filing of Application for Reinstatement Following Administrative Revocation, One Hundred Dollars (\$100.00).
 - (p) Certificate of Reinstatement Following Administrative Dissolution, (no fee).
 - (q) Certificate of Reinstatement Following Administrative Revocation of Authority to Transact Business, (no fee).
 - (r) Filing of Certificate of Revocation of Dissolution, Twenty-five Dollars (\$25.00).
 - (s) Application for Certificate of Existence or Authorization, Twenty-five Dollars (\$25.00).
 - (t) Any other document required or permitted to be filed under this chapter, Twenty-five Dollars (\$25.00).
- (2) The Secretary of State shall collect a fee of Twenty-five Dollars (\$25.00) each time process is served on the Secretary of State under Section 79-29-101 et seq.
- (3) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign limited liability company:
- (a) One Dollar (\$1.00) a page for copying; and
 - (b) Ten Dollars (\$10.00) for the certificate.
- (4) The Secretary of State may promulgate rules to:

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(a) Reduce the filing fees set forth in this section or provide for discounts of fees as set forth in this section to encourage online filing of documents or for other reasons as determined by the Secretary of State; and

(b) Provide for documents to be filed and accepted on an expedited basis upon the request of the applicant. The Secretary of State may promulgate rules to provide for an additional reasonable filing fee to be paid by the applicant and collected by the Secretary of State for the expedited filing services.

(5) This section shall stand repealed on July 1, 2015.

SECTION 123. Section 79-4-5.01, Mississippi Code of 1972, which provides for a registered agent maintaining a registered office, is repealed.

SECTION 124. Section 79-4-5.02, Mississippi Code of 1972, which provides for the change of the registered office of a registered agent, is repealed.

SECTION 125. Section 79-4-5.03, Mississippi Code of 1972, which provides for the resignation of a registered agent, is repealed.

SECTION 126. Section 79-4-5.04, Mississippi Code of 1972, which provides for service of process on a corporation, is repealed.

SECTION 127. Section 79-4-15.07, Mississippi Code of 1972, which provides for the registered office of a registered agent of a foreign corporation, is repealed.

SECTION 128. Section 79-4-15.08, Mississippi Code of 1972, which provides for the change of an officer or registered agent of a foreign corporation, is repealed.

SECTION 129. Section 79-4-15.09, Mississippi Code of 1972, which provides for the resignation of a registered agent of a foreign corporation, is repealed.

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SECTION 130. Section 79-11-163, Mississippi Code of 1972, which requires that a nonprofit corporation maintain a registered office and registered agent within the state, is repealed.

SECTION 131. Section 79-11-165, Mississippi Code of 1972, which provides for a change of registered office or registered agent by a nonprofit corporation, is repealed.

SECTION 132. Section 79-11-167, Mississippi Code of 1972, which provides for the resignation of a nonprofit corporation's registered agent, is repealed.

SECTION 133. Section 79-11-169, Mississippi Code of 1972, which provides for service of process upon a nonprofit corporation, is repealed.

SECTION 134. Section 79-11-375, Mississippi Code of 1972, which requires that a foreign nonprofit corporation maintain a registered office and registered agent within the state, is repealed.

SECTION 135. Section 79-11-377, Mississippi Code of 1972, which provides for a change of registered office or registered agent by a foreign nonprofit corporation, is repealed.

SECTION 136. Section 79-11-379, Mississippi Code of 1972, which provides for the resignation of a foreign nonprofit corporation's registered agent, is repealed.

SECTION 137. Section 79-15-115, Mississippi Code of 1972, which requires that a foreign investment trust maintain a registered office and registered agent within the state, is repealed.

SECTION 138. Section 79-15-117, Mississippi Code of 1972, which provides for a change or resignation of registered office or registered agent by a foreign investment trust, is repealed.

SECTION 139. Section 79-15-119, Mississippi Code of 1972, which provides for service of process upon a foreign investment trust, is repealed.

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SECTION 140. Section 79-16-17, Mississippi Code of 1972, which requires that a foreign business trust maintain a registered office and registered agent within the state, is repealed.

SECTION 141. Section 79-16-19, Mississippi Code of 1972, which provides for a change or resignation of registered office or registered agent by a foreign business trust, is repealed.

SECTION 142. Section 79-16-21, Mississippi Code of 1972, which provides for service of process upon a foreign business trust, is repealed.

SECTION 143. Section 79-29-113, Mississippi Code of 1972, which requires that a limited liability company maintain a registered office and registered agent within the state, is repealed.

SECTION 144. Section 79-29-125, Mississippi Code of 1972, which provides for service of process upon a limited liability company, is repealed.

SECTION 145. This act shall take effect and be in force from and after January 1, 2013.

Mississippi Legislature
2012 Regular Session

House Bill 1250

Description: Light wine & beer; retailers may not accept coupons that are redeemed from a manufacturer, wholesaler or distributor of light wine or beer.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Ways and Means
- 2 02/29 (H) Title Suff Do Pass
- 3 03/12 (H) Passed Yea
- 4 03/13 (H) Transmitted To Senate
- 5 03/26 (S) Referred To Tourism
- 6 03/29 (S) Title Suff Do Pass
- 7 04/04 (S) Passed Yea
- 8 04/05 (S) Transmitted To House
- 9 04/11 (S) Enrolled Bill Signed
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/17 Approved by Governor

Code Section: A 067-0003-0053

----- Additional Information -----

House Committee: Ways and Means

Senate Committee: Tourism

Principal Author: Smith (39th)

2012 GENERAL LAWS OF MISSISSIPPI, HB 1250

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Smith (39th)

To: Ways and Means

HOUSE BILL NO. 1250

AN ACT TO AMEND SECTION 67-3-53, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IT SHALL BE UNLAWFUL FOR THE HOLDER OF A PERMIT AUTHORIZING THE SALE OF BEER OR LIGHT WINE AT RETAIL, OR FOR THE EMPLOYEE OF THE HOLDER OF SUCH A PERMIT, TO ACCEPT AS FULL OR PARTIAL PAYMENT FOR ANY PRODUCT ANY COUPONS THAT ARE REDEEMED DIRECTLY OR INDIRECTLY FROM A MANUFACTURER, WHOLESALER OR DISTRIBUTOR OF LIGHT WINE OR BEER; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 67-3-53, Mississippi Code of 1972, is amended as follows:

67-3-53. In addition to any act declared to be unlawful by this chapter, or by Sections 27-71-301 through 27-71-347, and Sections 67-3-17, 67-3-27, 67-3-29 and 67-3-57, it shall be unlawful for the holder of a permit authorizing the sale of beer or light wine at retail or for the employee of the holder of such a permit:

(a) To sell or give to be consumed in or upon any licensed premises any beer or light wine between the hours of midnight and seven o'clock the following morning or during any time the licensed premises may be required to be closed by municipal ordinance or order of the board of supervisors; however, in areas where the sale of alcoholic beverages is legal under the provisions of the Local Option Alcoholic Beverage Control Law and the hours for selling those alcoholic beverages have been extended beyond midnight for on-premises permittees under Section 67-1-37, the hours for selling beer or light wines are likewise extended in areas where the sale of beer and light wines is legal in accordance with the provisions of this chapter.

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(b) To sell, give or furnish any beer or light wine to any person visibly or noticeably intoxicated, or to any habitual drunkard, or to any person under the age of twenty-one (21) years.

(c) To permit in the premises any lewd, immoral or improper entertainment, conduct or practices.

(d) To permit loud, boisterous or disorderly conduct of any kind upon the premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community in which the business is located.

(e) To permit persons of ill repute, known criminals, prostitutes or minors to frequent the licensed premises, except minors accompanied by parents or guardians, or under proper supervision.

(f) To permit or suffer illegal gambling or the operation of illegal games of chance upon the licensed premises.

(g) To receive, possess or sell on the licensed premises any beverage of any kind or character containing more than five percent (5%) of alcohol by weight unless the licensee also possesses an on-premises permit under the Local Option Alcoholic Beverage Control Law.

(h) To accept as full or partial payment for any product any coupons that are redeemed directly or indirectly from a manufacturer, wholesaler or distributor of light wine or beer.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 1255

Description: Economic development; certain agreements by counties and cities with economic development projects may be binding not more than 20 years.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 02/20 (H) Referred To Ways and Means
- 2 03/01 (H) Title Suff Do Pass
- 3 03/12 (H) Passed (Vote)
- 4 03/13 (H) Transmitted To Senate
- 5 03/19 (S) Referred To Finance
- 6 03/29 (S) Title Suff Do Pass
- 7 04/05 (S) Passed (Vote)
- 8 04/09 (S) Transmitted To House
- 9 04/11 (S) Enrolled Bill Signed
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/17 Approved by Governor

----- Additional Information -----

House Committee: Ways and Means

Senate Committee: Finance

Principal Author: Smith (39th)

2012 GENERAL LAWS OF MISSISSIPPI, HB 1255

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Smith (39th)

To: Ways and Means

HOUSE BILL NO. 1255

AN ACT TO AUTHORIZE THE BOARD OF SUPERVISORS OF A COUNTY OR THE GOVERNING AUTHORITIES OF A MUNICIPALITY TO ENTER INTO AGREEMENTS WITH CERTAIN ECONOMIC DEVELOPMENT PROJECTS TO PROVIDE WATER, SEWER AND OTHER COUNTY OR MUNICIPAL SERVICES, AND PROVIDING THAT THE BOARD OF SUPERVISORS OR GOVERNING AUTHORITIES WILL AGREE IN ADVANCE TO APPROVE ANY REQUEST FOR EXEMPTION FROM AD VALOREM TAXES IN THE MANNER PROVIDED BY LAW AND THAT ANY SUCH EXEMPTION SHALL BE FOR A PERIOD OF 10 YEARS; TO PROVIDE THAT THE AGREEMENTS AUTHORIZED IN THIS SECTION MAY BE FOR A PERIOD NOT TO EXCEED 20 YEARS AND SHALL BE BINDING ON FUTURE BOARDS OF SUPERVISORS OF THE COUNTY OR GOVERNING AUTHORITIES OF THE MUNICIPALITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) As used in this section, "economic development project" means any project in which the State of Mississippi has committed state or federal program funds to incentivize a company to locate or expand a business in the state and create or maintain jobs within the state.

(2) The board of supervisors of a county or the governing authorities of a municipality may enter into agreements with an economic development project that are binding on future boards of supervisors of the county or governing authorities of the municipality:

(a) To provide water, sewer and other county or municipal services; and/or

(b) Providing that the board of supervisors or governing authorities will agree in advance to approve any request for exemption from ad valorem taxes in the manner provided by law and that any such exemption shall be for a period of ten (10) years.

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(3) The agreements authorized under this section may be for a period not to exceed twenty (20) years.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session
House Bill 1301

Description: Contractor; may receive copy of bond upon request.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Judiciary A
- 2 02/28 (H) Title Suff Do Pass Comm Sub
- 3 03/08 (H) Committee Substitute Adopted
- 4 03/08 (H) Passed *Vote*
- 5 03/09 (H) Transmitted To Senate
- 6 03/26 (S) Referred To Judiciary, Division A
- 7 03/29 (S) Title Suff Do Pass
- 8 04/04 (S) Passed *Vote*
- 9 04/05 (S) Transmitted To House
- 10 04/11 (S) Enrolled Bill Signed
- 11 04/11 (H) Enrolled Bill Signed
- 12 04/17 Approved by Governor

Code Section: A 085-0007-0185

----- Additional Information -----

House Committee: Judiciary A

Senate Committee: Judiciary, Division A

Principal Author: Morgan

Additional Authors: Boyd, Busby, Carpenter, Chism, Lott, Staples

2012 GENERAL LAWS OF MISSISSIPPI, HB 1301

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representatives Morgan, Boyd, Busby,
Carpenter, Chism, Lott, Staples

To: Judiciary A

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1301

AN ACT TO AMEND SECTION 85-7-185, MISSISSIPPI CODE OF 1972,
TO AUTHORIZE A SUPPLIER OF LABOR OR MATERIALS TO RECEIVE A COPY OF
THE BOND; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 85-7-185, Mississippi Code of 1972, is
amended as follows:

85-7-185. When any contractor or subcontractor entering into
a formal contract with any person, firm or corporation, for the
construction of any building or work or the doing of any repairs,
shall enter into a bond with such person, firm or corporation
guaranteeing the faithful performance of such contract and
containing such provisions and penalties as the parties thereto
may insert therein, such bond shall also be subject to the
additional obligations that such contractor or subcontractor shall
promptly make payments to all persons furnishing labor or material
or rental or lease equipment under said contract; and in the event
such bond does not contain any such provisions for the payment of
the claims of persons furnishing labor or material or rental or
lease equipment under said contract, such bond shall nevertheless
inure to the benefit of such person furnishing labor or material
under said contract, the same as if such stipulation had been
incorporated in said bond, and any such person who has furnished
labor or materials or rental or lease equipment used therein for
which payment has not been made shall have the right to intervene
and be made a party to any action instituted on such bond, and to
have his rights adjudicated in such action and judgment rendered
thereon, subject, however, to the priority of the rights or claim

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for damages or otherwise, of the obligee. The bond herein provided for may be made by any surety company authorized to do business in the State of Mississippi. A subcontractor supplying labor or materials for the prosecution of work shall, upon request to the owner or contractor, be furnished with a true and correct copy of the bond.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 1326

Description: Crimes; revise certain provisions relating to hunting on public roads, streets and highways.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Wildlife, Fisheries and Parks;Transportation
- 2 02/23 (H) DR - TSDP: WI To TR
- 3 02/28 (H) DR - TSDP: TR To WI
- 4 02/28 (H) Title Suff Do Pass
- 5 03/08 (H) Passed (Vote)
- 6 03/09 (H) Transmitted To Senate
- 7 03/19 (S) Referred To Wildlife, Fisheries and Parks;Highways and Transportation
- 8 03/29 (S) DR - TSDP: WI To HI
- 9 04/02 (S) Title Suff Do Pass
- 10 04/04 (S) Passed (Vote)
- 11 04/05 (S) Transmitted To House
- 12 04/10 (S) Enrolled Bill Signed
- 13 04/10 (H) Enrolled Bill Signed
- 14 04/16 Approved by Governor

Code Section: A 097-0015-0013

----- Additional Information -----

House Committee: Wildlife, Fisheries and Parks, Transportation

Senate Committee: Wildlife, Fisheries and Parks, Highways and Transportation

Principal Author: Bounds

2012 GENERAL LAWS OF MISSISSIPPI, HB 1326

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Bounds

To: Wildlife, Fisheries and
Parks; Transportation

HOUSE BILL NO. 1326

AN ACT TO AMEND SECTION 97-15-13, MISSISSIPPI CODE OF 1972, TO REMOVE THE EVIDENTIARY REQUIREMENT ESTABLISHED FOR PERSONS ENGAGED IN THE ACT OF HUNTING ON PUBLIC ROADS, TO PROVIDE THAT IT SHALL BE UNLAWFUL TO DO SO; TO CLARIFY THE DEFINITION OF AN UNLOADED WEAPON; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 97-15-13, Mississippi Code of 1972, is amended as follows:

97-15-13. (1) (a) The provisions of this subsection shall only be applicable during the calendar days included in the open seasons on deer and turkey.

(b) It shall be unlawful for any person to hunt, if such person is in the possession of a firearm that is not unloaded on any street, public road, public highway, levee, or any railroad which is maintained by any railroad corporation, city, county, levee board, state or federal entity or the right-of-way of any such street, road, highway, levee or railroad * * *.

(c) The provisions of this subsection shall not apply to any person engaged in a lawful action to protect his property or livestock.

(2) For purposes of this section, the following terms shall have the meanings ascribed to them herein:

(a) "Right-of-way" means that part of a street, public road, public highway, levee or railroad maintained by a city, county, levee board, state or federal entity or railroad corporation and including that portion up to the adjacent property line or fence line.

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(b) "Motorized vehicle" means any vehicle powered by any type of motor, including automobiles, farm vehicles, trucks, construction vehicles and all-terrain vehicles.

(c) "Firearm" means any firearm other than a handgun.

(d) "Hunt" or "hunting" means to hunt or chase or to shoot at or kill or to pursue with the intent to take, kill or wound any wild animal or wild bird with a firearm as defined in this subsection.

(e) "Unloaded" means that a cartridge or shell is not positioned in the barrel or magazine of the firearm or in a clip, magazine or retainer attached to the firearm * * *; or in the case of a caplock muzzle-loading firearm, "unloaded" means that the cap has been removed; or in the case of a flintlock muzzle-loading firearm, "unloaded" means that all powder has been removed from the flashpan.

(3) If any person hunts or discharges any firearm in, on or across any street, public road, public highway, levee, railroad or the right-of-way thereof, such person is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not less than sixty (60) days nor more than six (6) months, or by both such fine and imprisonment. This subsection shall not apply to any law enforcement officer while in the performance of his official duty or to any person engaged in a lawful action of self-defense.

(4) If any person shall willfully shoot any firearms or hurl any missile at any street, highway or railroad traffic light; street, highway or railroad marker or other sign for the regulation or designation of street, highway or railroad travel such person, upon conviction, shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or be imprisoned not longer than thirty (30) days in the county jail, or both.

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(5) It shall be the duty of all sheriffs, deputy sheriffs, constables, conservation officers and peace officers of this state to enforce the provisions of this section.

(6) If any subsection, paragraph, sentence, clause, phrase or any part of this section is hereafter declared to be unconstitutional or void, or if for any reason is declared to be invalid or of no effect, the remaining subsections, paragraphs, sentences, clauses, phrases or parts thereof shall be in no manner affected thereby but shall remain in full force and effect.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 1348

Description: Surplus line insurance; exempt from premium tax any property risk written by DFA on behalf of State of Mississippi.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: Passage

History of Actions:

- 1 02/20 (H) Referred To Insurance
- 2 02/28 (H) Title Suff Do Pass
- 3 03/08 (H) Passed (Vote)
- 4 03/09 (H) Transmitted To Senate
- 5 03/16 (S) Referred To Insurance
- 6 03/28 (S) Title Suff Do Pass
- 7 04/04 (S) Passed (Vote)
- 8 04/05 (S) Transmitted To House
- 9 04/10 (S) Enrolled Bill Signed
- 10 04/10 (H) Enrolled Bill Signed
- 11 04/16 Approved by Governor

Code Section: A 083-0021-0025

---- Additional Information ----

House Committee: Insurance

Senate Committee: Insurance

Principal Author: Chism

2012 GENERAL LAWS OF MISSISSIPPI, HB 1348

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Chism

To: Insurance

HOUSE BILL NO. 1348

AN ACT TO AMEND SECTION 83-21-25, MISSISSIPPI CODE OF 1972, TO EXEMPT THE PAYMENT OF THE SURPLUS LINE PREMIUM TAX ON ANY PROPERTY RISK WRITTEN BY THE DEPARTMENT OF FINANCE AND ADMINISTRATION ON BEHALF OF THE STATE OF MISSISSIPPI; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-21-25, Mississippi Code of 1972, is amended as follows:

83-21-25. (1) The surplus lines insurance producer shall report under oath to the Commissioner of Insurance, within thirty (30) days from the first of January and July of each year, the amount of gross premiums received by him for such insurance in nonadmitted insurers, and shall pay to the Commissioner of Insurance a tax of four percent (4%) thereon. The term "gross premiums" shall mean the total gross amount of premiums received on each and every surplus lines insurance contract, less returned premiums. In default of the payment of any sum which may be due the state under this law, the Commissioner of Insurance may sue for the same. The surplus lines insurance producer shall keep a separate record of all transactions, as herein provided, open at all times to the inspection of the Commissioner of Insurance. The surplus lines insurance producer may designate another surplus lines insurance producer that actually procured the insurance from the nonadmitted insurer to report and pay, on behalf of the surplus lines insurance producer, to the Commissioner of Insurance the tax due the state under this law. The surplus lines insurance producer designated to pay the tax shall be deemed to have the same obligations and responsibilities for reporting and paying the

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tax due the state on the insurance procured from the nonadmitted insurer as the surplus lines insurance producer who was initially responsible for reporting and paying the tax, and the Commissioner of Insurance may sue such surplus lines insurance producer designated to pay the tax in the event such surplus lines insurance producer is in default of any sum which is due the state for which the designated surplus lines insurance producer is responsible or obligated to pay.

(2) Notwithstanding any provision herein to the contrary, the four percent (4%) tax required in subsection (1) of this section shall not apply to any property risk written by and through the Department of Finance and Administration on behalf of the State of Mississippi. This subsection shall stand repealed from and after July 1, 2013.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

House Bill 1355

Description: Controlled substances; acquiring by theft, fraud and the like.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Judiciary B
- 2 03/01 (H) Title Suff Do Pass
- 3 03/08 (H) Passed
- 4 03/09 (H) Transmitted To Senate
- 5 03/16 (S) Referred To Drug Policy;Judiciary, Division B
- 6 03/28 (S) DR - TSDP: DP To JB
- 7 04/03 (S) Title Suff Do Pass
- 8 04/05 (S) Passed
- 9 04/09 (S) Transmitted To House
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/12 (S) Enrolled Bill Signed
- 12 04/18 Approved by Governor

Code Section: A 041-0029-0144

----- Additional Information -----

House Committee: Judiciary B

Senate Committee: Drug Policy, Judiciary, Division B

Principal Author: Baker

2012 GENERAL LAWS OF MISSISSIPPI, HB 1355

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Baker

To: Judiciary B

HOUSE BILL NO. 1355

AN ACT TO AMEND SECTION 41-29-144, MISSISSIPPI CODE OF 1972, TO REVISE THE PROHIBITED ACTS IN OBTAINING POSSESSION OF A CONTROLLED SUBSTANCE OR LEGEND DRUG BY THEFT, FRAUD AND THE LIKE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 41-29-144, Mississippi Code of 1972, is amended as follows:

41-29-144. (1) It is unlawful for any person knowingly or intentionally to acquire or obtain possession or attempt to acquire or obtain possession of a controlled substance or a legend drug by larceny, embezzlement, misrepresentation, fraud, forgery, deception or subterfuge.

(2) It is unlawful for any person knowingly or intentionally to possess, sell, deliver, transfer or attempt to possess, sell, deliver or transfer a false, fraudulent or forged prescription of a practitioner.

(3) Any person who violates this section is guilty of a crime and upon conviction shall be confined for not less than one (1) year nor more than five (5) years and fined not more than One Thousand Dollars (\$1,000.00) 1 or both.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 1390

Description: Abortions; all physicians performing in abortion clinics must have admitting privileges at a local hospital.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Public Health and Human Services
- 2 02/28 (H) Title Suff Do Pass
- 3 03/13 (H) Amendment Failed
- 4 03/13 (H) Passed (Vote)
- 5 03/13 (H) Motion to Reconsider Entered (Myers, Mims, Barker)
- 6 03/14 (H) Motion to Reconsider Tabled
- 7 03/14 (H) Transmitted To Senate
- 8 03/28 (S) Referred To Public Health and Welfare
- 9 04/03 (S) Title Suff Do Pass
- 10 04/04 (S) Passed (Vote)
- 11 04/04 (S) Motion to Reconsider Entered
- 12 04/05 (S) Motion to Reconsider Tabled
- 13 04/05 (S) Transmitted To House
- 14 04/09 (H) Enrolled Bill Signed
- 15 04/09 (S) Enrolled Bill Signed
- 16 04/16 Approved by Governor

Amendments:

  [H] Amendment No 1 **Lost** *Voice Vote*

Code Section: A 041-0075-0001

---- Additional Information ----

House Committee: Public Health and Human Services

Senate Committee: Public Health and Welfare

Principal Author: Mims

2012 GENERAL LAWS OF MISSISSIPPI, HB 1390

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative Mims

To: Public Health and Human
Services

HOUSE BILL NO. 1390

AN ACT TO AMEND SECTION 41-75-1, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT ALL PHYSICIANS WHO PERFORM ABORTIONS IN ABORTION FACILITIES MUST HAVE ADMITTING PRIVILEGES AT A LOCAL HOSPITAL AND MUST BE BOARD CERTIFIED IN OBSTETRICS AND GYNECOLOGY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 41-75-1, Mississippi Code of 1972, is amended as follows:

41-75-1. For the purpose of this chapter:

(a) "Ambulatory surgical facility" means a publicly or privately owned institution that is primarily organized, constructed, renovated or otherwise established for the purpose of providing elective surgical treatment of "outpatients" whose recovery, under normal and routine circumstances, will not require "inpatient" care. The facility defined in this paragraph does not include the offices of private physicians or dentists, whether practicing individually or in groups, but does include organizations or facilities primarily engaged in that outpatient surgery, whether using the name "ambulatory surgical facility" or a similar or different name. That organization or facility, if in any manner considered to be operated or owned by a hospital or a hospital holding, leasing or management company, either for profit or not for profit, is required to comply with all licensing agency ambulatory surgical licensure standards governing a "hospital affiliated" facility as adopted under Section 41-9-1 et seq., provided that the organization or facility does not intend to seek federal certification as an ambulatory surgical facility as provided for at 42 CFR, Parts 405 and 416. If the organization or

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facility is to be operated or owned by a hospital or a hospital holding, leasing or management company and intends to seek federal certification as an ambulatory facility, then the facility is considered to be "freestanding" and must comply with all licensing agency ambulatory surgical licensure standards governing a "freestanding" facility.

If the organization or facility is to be owned or operated by an entity or person other than a hospital or hospital holding, leasing or management company, then the organization or facility must comply with all licensing agency ambulatory surgical facility standards governing a "freestanding" facility.

(b) "Hospital affiliated" ambulatory surgical facility means a separate and distinct organized unit of a hospital or a building owned, leased, rented or utilized by a hospital and located in the same county in which the hospital is located, for the primary purpose of performing ambulatory surgery procedures. The facility is not required to be separately licensed under this chapter and may operate under the hospital's license in compliance with all applicable requirements of Section 41-9-1 et seq.

(c) "Freestanding" ambulatory surgical facility means a separate and distinct facility or a separate and distinct organized unit of a hospital owned, leased, rented or utilized by a hospital or other persons for the primary purpose of performing ambulatory surgery procedures. The facility must be separately licensed as defined in this section and must comply with all licensing standards promulgated by the licensing agency under this chapter regarding a "freestanding" ambulatory surgical facility. Further, the facility must be a separate, identifiable entity and must be physically, administratively and financially independent and distinct from other operations of any other health facility, and shall maintain a separate organized medical and administrative staff. Furthermore, once licensed as a "freestanding" ambulatory surgical facility, the facility shall not become a component of

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any other health facility without securing a certificate of need to do that.

(d) "Ambulatory surgery" means surgical procedures that are more complex than office procedures performed under local anesthesia, but less complex than major procedures requiring prolonged postoperative monitoring and hospital care to ensure safe recovery and desirable results. General anesthesia is used in most cases. The patient must arrive at the facility and expect to be discharged on the same day. Ambulatory surgery shall only be performed by physicians or dentists licensed to practice in the State of Mississippi.

(e) "Abortion" means the use or prescription of any instrument, medicine, drug or any other substances or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth or to remove a dead fetus. Abortion procedures after the first trimester shall only be performed at a Level I abortion facility or an ambulatory surgical facility or hospital licensed to perform that service.

(f) "Abortion facility" means a facility operating substantially for the purpose of performing abortions and is a separate identifiable legal entity from any other health care facility. Abortions shall only be performed by physicians licensed to practice in the State of Mississippi. All physicians associated with the abortion facility must have admitting privileges at a local hospital and staff privileges to replace local hospital on-staff physicians. All physicians associated with an abortion facility must be board certified or eligible in obstetrics and gynecology, and a staff member trained in CPR shall always be present at the abortion facility when it is open. The term "abortion facility" includes physicians' offices that are used substantially for the purpose of performing abortions. An

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abortion facility operates substantially for the purpose of performing abortions if any of the following conditions are met:

(i) The abortion facility is a provider for performing ten (10) or more abortion procedures per calendar month during any month of a calendar year, or one hundred (100) or more in a calendar year.

(ii) The abortion facility, if operating less than twenty (20) days per calendar month, is a provider for performing ten (10) or more abortion procedures, or performing a number of abortion procedures that would be equivalent to ten (10) procedures per month, if the facility were operating twenty (20) or more days per calendar month, in any month of a calendar year.

(iii) The abortion facility holds itself out to the public as an abortion provider by advertising by any public means, such as newspaper, telephone directory, magazine or electronic media, that it performs abortions.

(iv) The facility applies to the licensing agency for licensure as an abortion facility.

(g) "Licensing agency" means the State Department of Health.

(h) "Operating" an abortion facility means that the facility is open for any period of time during a day and has on site at the facility or on call a physician licensed to practice in the State of Mississippi available to provide abortions.

An abortion facility may apply to be licensed as a Level I facility or a Level II facility by the licensing agency. Level II abortion facilities shall be required to meet minimum standards for abortion facilities as established by the licensing agency. Level I abortion facilities shall be required to meet minimum standards for abortion facilities and minimum standards for ambulatory surgical facilities as established by the licensing agency.

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Any abortion facility that begins operation after June 30, 1996, shall not be located within fifteen hundred (1500) feet from the property on which any church, school or kindergarten is located. An abortion facility shall not be in violation of this paragraph if it is in compliance with this paragraph on the date it begins operation and the property on which a church, school or kindergarten is located is later within fifteen hundred (1500) feet from the facility.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 1407

Description: Geographic information system and multipurpose cadastre; remove restriction imposed upon local governments.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To County Affairs
- 2 03/06 (H) Title Suff Do Pass
- 3 03/13 (H) Read the Third Time
- 4 03/15 (H) Passed *{Vote}*
- 5 03/16 (H) Transmitted To Senate
- 6 03/22 (S) Referred To Accountability, Efficiency, Transparency
- 7 04/02 (S) Title Suff Do Pass
- 8 04/05 (S) Passed *{Vote}*
- 9 04/09 (S) Transmitted To House
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/12 (S) Enrolled Bill Signed
- 12 04/18 Approved by Governor

Code Section: A 025-0058-0001, BF 025-0058-0021

----- Additional Information -----

House Committee: County Affairs

Senate Committee: Accountability, Efficiency, Transparency

Principal Author: DeLano

2012 GENERAL LAWS OF MISSISSIPPI, HB 1407

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative DeLano

To: County Affairs

HOUSE BILL NO. 1407

AN ACT TO AMEND SECTION 25-58-1, MISSISSIPPI CODE OF 1972, TO DELETE THE PROHIBITION IMPOSED ON ANY COUNTY OR MUNICIPALITY DESIRING TO CONTRACT FOR, PURCHASE, LEASE OR CREATE A GEOGRAPHIC INFORMATION SYSTEM OR MULTIPURPOSE CADASTRE WITHOUT HAVING FIRST SUBMITTED ITS PLAN FOR SUCH SYSTEMS TO THE MISSISSIPPI CENTRAL DATA PROCESSING AUTHORITY FOR APPROVAL; TO BRING FORWARD SECTION 25-58-21, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-58-1, Mississippi Code of 1972, is amended as follows:

25-58-1. (1) For the purposes of this section, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Geographic information system" means a computerized, spatial coordinate mapping and relational data base technology which (i) captures, assembles, stores, converts, manages, analyzes, amalgamates and records, in the digital mode, all kinds and types of information and data; (ii) transforms such information and data into intelligence; and subsequently (iii) retrieves, presents and distributes that intelligence to a user for use in making the intelligent decisions necessary for sound management of private or political affairs.

(b) "Data base" means a collection of available information and data assembled into electronic files for efficient and timely management of county and municipal affairs and functions and the exercise of the powers, duties and responsibilities placed upon the governing authorities of a county

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or municipality by Mississippi law and the Mississippi Constitution.

(c) "Multipurpose cadastre" means a uniformly accepted base map registered to the Mississippi State Plane Coordinate System and depicting boundaries of all public properties.

(d) "Mississippi State Plane Coordinate System" means the system of plane rectangular coordinates established by the National Geodetic Survey which system is further identified as North American Datum (NAD) 1983.

(2) The board of supervisors of any county and the governing authorities of any municipality are hereby authorized and empowered, in their discretion, to do all things necessary and desirable to create a geographic information system for the county or municipality, as appropriate. Data bases for such a system shall be created under the direct supervision of persons who are experienced in and possess a demonstrated knowledge of the preparation of geographic information systems and of the data bases and the other requirements and activities related thereto.

(3) The board of supervisors of any county and the governing authorities of any municipality are further authorized and empowered, in their discretion, to prepare, or have prepared, a multipurpose cadastre registered to the accuracy standards promulgated by the Federal Geodetic Control Committee established under the provisions of the United States Office of Management and Budget Memoranda A-16.

* * *

SECTION 2. Section 25-58-21, Mississippi Code of 1972, is brought forward as follows:

25-58-21. (1) There is established the Mississippi Coordinating Council for Remote Sensing and Geographic Information Systems, hereinafter referred to as the "council." The council shall set and assure enforcement of policies and standards to make it easier for remote sensing and geographic information system

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users around the state to share information and to facilitate cost-sharing arrangements to reduce the costs of acquiring remote sensing and geographic information system data. The council shall not oversee or regulate the activities of higher education entities where it relates to the fields of teaching or research; however, the council shall be informed of these activities for the purpose of coordinating these higher education activities with other public remote sensing and GIS initiatives to achieve the maximum benefit for the State of Mississippi and its taxpayers. The council's responsibilities include, but are not limited to:

(a) Coordination of remote sensing and geographic information system activities within Mississippi;

(b) Establishing policies and standards to guide Mississippi Department of Information Technology Services (MDITS) in the review and approval of state and local government procurement of both hardware and software development relating to remote sensing and geographic information systems;

(c) Oversight of MDITS' implementation of these responsibilities;

(d) Preparing a plan, with proposed state funding priorities, for Mississippi's remote sensing and geographic information system activities, including development, operation and maintenance of the Mississippi Digital Earth Model;

(e) Oversight of the Mississippi Department of Environmental Quality's development and maintenance of the Mississippi Digital Earth Model, including establishing policies and standards for the procurement of remote sensing and geographic information system data by state and local governmental entities and establishing the order in which the seven (7) core data layers shall be developed;

(f) Designating Mississippi's official representative to the National States Geographic Information Council and to any other national or regional remote sensing or geographical

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information system organizations on which Mississippi has an official seat;

(g) Establishing and designating the members of an advisory committee made up of policy level officials from major state, local, regional and federal agencies, including, but not limited to, the National Association of Space Administration, the Mississippi Institute for Forestry Inventory, the Mississippi Department of Wildlife, Fisheries and Parks, the Mississippi Public Utilities Staff, the Department of Marine Resources, the county E911 coordinator, the State Health Officer, the Commissioner of Agriculture and Commerce, the State Tax Commission, the Council of Consulting Engineers and the Mississippi Band of Choctaw Indians, as well as members of the private sector;

(h) Creating a staff level technical users committee, in which any public or private sector entity in Mississippi interested in remote sensing and geographic information may be allowed to participate;

(i) Coordinating with the State Tax Commission to assure that state and local governmental entities do not have to comply with two (2) sets of requirements imposed by different organizations.

(2) The Mississippi Coordinating Council for Remote Sensing and Geographic Information Systems will be composed of the following members:

(a) The Executive Director of the Mississippi Department of Environmental Quality;

(b) The Executive Director of the Mississippi Department of Information Technology Services;

(c) The Executive Director of the Mississippi Department of Transportation;

(d) The Executive Director of the Mississippi Emergency Management Agency;

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(e) The Executive Director of the Mississippi Development Authority;

(f) The Secretary of State;

(g) The Executive Director of the Mississippi Forestry Commission;

(h) The Director of the Mississippi State Board of Registered Professional Geologists;

(i) A representative from the Institutions of Higher Learning, appointed by the Commissioner of the Institutions of Higher Learning;

(j) One (1) mayor, serving a municipality, appointed by the Executive Director of the Mississippi Municipal League;

(k) The Executive Director of the Mississippi Municipal League or his designee who will serve as the member;

(l) One (1) county supervisor appointed by the Executive Director of the Mississippi Association of Supervisors;

(m) The Executive Director of the Mississippi Association of Supervisors or his designee who will serve as the member;

(n) A member of the Tax Assessors/Collectors Association or the executive director of the association, to be appointed by the president of that association;

(o) A representative of the Planning and Development Districts, appointed by the Governor;

(p) A Senator, as a nonvoting member, appointed by the Lieutenant Governor;

(q) A Representative, as a nonvoting member, appointed by the Speaker of the House;

(r) A county surveyor who is a member of the Mississippi Association of Professional Surveyors, appointed by the president of the association; and

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The members listed in paragraphs (a) through (g) may appoint a designee, but the designee must be the head of an office, bureau, division or branch within the member's agency.

The members of the council shall serve for a term concurrent with their service as an elected or appointed official or concurrent with the term of the appointing official.

The Executive Director of the Department of Environmental Quality shall serve as council chair and the Executive Director of Information Technology Services as vice chair for the first two (2) years. After the first two (2) years, the council shall elect from its members a chair and vice chair, for terms to be specified by the council.

With regard to the designee chosen by the Executive Director of the Mississippi Municipal League or the Executive Director of the Mississippi Association of Supervisors, the designee shall become a permanent member of the council for a term concurrent with the term of the appointing executive director.

(3) At the direction of the chairman of the council and contingent upon the availability of sufficient funds, each member may receive reimbursement for reasonable expenses, including travel expenses in accordance with rates established pursuant to Section 25-3-41, incurred in attending meetings of the council. Any member of the council who is also a state employee may not receive per diem compensation for attending meetings of the study committee, but may be reimbursed in accordance with Section 25-3-41 for mileage and actual expenses incurred in the performance of the duties, if authorized by vote, at a meeting of the council, which action must be recorded in the official minutes of the meeting. Legislative members of the council will be paid from the contingent expense funds of their respective houses in the same amounts as provided for committee meetings when the Legislature is not in session.

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(4) The council may accept money from any source, public or private, to be expended in implementing the duties under this section.

(5) The council may utilize staff employed by the agencies affected by this section and any other assistance made available to it.

SECTION 3. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 1416

Description: Motor vehicle title; create an alternative procedure to obtain where there is a total loss settlement.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To Insurance;Judiciary A
- 2 02/29 (H) DR - TSDPCS: IN To JA
- 3 03/06 (H) DR - TSDPCS: JA To IN
- 4 03/06 (H) Title Suff Do Pass Comm Sub
- 5 03/09 (H) Committee Substitute Adopted
- 6 03/09 (H) Passed (Vote)
- 7 03/13 (H) Transmitted To Senate
- 8 03/19 (S) Referred To Insurance;Judiciary, Division A
- 9 03/28 (S) DR - TSDP: IN To JA
- 10 04/03 (S) Title Suff Do Pass
- 11 04/05 (S) Passed (Vote)
- 12 04/09 (S) Transmitted To House
- 13 04/11 (H) Enrolled Bill Signed
- 14 04/12 (S) Enrolled Bill Signed
- 15 04/18 Approved by Governor

Code Section: A 083-0011-0551

----- Additional Information -----

House Committee: Insurance, Judiciary A

Senate Committee: Insurance, Judiciary, Division A

Principal Author: DeLano

2012 GENERAL LAWS OF MISSISSIPPI, HB 1416

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative DeLano

To: Insurance; Judiciary A

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1416

AN ACT TO AMEND SECTION 83-11-551, MISSISSIPPI CODE OF 1972, TO CREATE AN ALTERNATIVE PROCEDURE TO OBTAIN TITLE OF A MOTOR VEHICLE WHERE THERE IS A TOTAL LOSS SETTLEMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-11-551, Mississippi Code of 1972, is amended as follows:

83-11-551. (1) In cases in which there is not a total loss, when there are one or more lienholders shown in the policy or confirmed in writing by the insured before the loss, an insurer paying a claim under automobile physical damage coverage or automobile collision coverage, as such terms are defined in Section 83-11-1, shall add as a payee on the check, in addition to the name of the insured, the name of the business or other entity repairing the automobile or the name of the lienholder or lienholders.

(2) In cases of a total loss, when there are one or more lienholders (a) shown in the policy, (b) confirmed in writing by the insured before the loss, or (c) shown on the vehicle title recorded with the Mississippi Department of Revenue, an insurer paying a claim under automobile physical damage coverage or automobile collision coverage, as such terms are defined in Section 83-11-1, shall add as a payee on the check, in addition to the name of the insured, the name of the lienholder or lienholders.

(3) If the insured disputes the existence of any lien, it is the insured's responsibility to have the liens released. When payment is made to a lienholder, the lienholder shall pay any

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balance owed to the debtor within thirty (30) days after receipt of the check. However, in the case of a total loss, the insurer may issue separate checks to the lienholder and to the insured for the amount of each party's financial interest in the vehicle. This section shall not apply to the repair or replacement of glass in the vehicle.

(4) If an insurance company makes a total loss settlement on a motor vehicle, the owner or lienholder of the motor vehicle shall forward the properly endorsed certificate of title to the insurance company within fifteen (15) days after receipt of the settlement funds.

(5) (a) If an insurance company is unable to obtain the properly endorsed certificate of title within thirty (30) days after disbursing a total loss settlement payment for a motor vehicle that does not have a lien or encumbrance, the insurance company or its agent may request the Department of Revenue to issue a salvage certificate of title or a parts-only certificate of title for the vehicle.

(b) The request under paragraph (a) of this subsection shall:

(i) Be submitted on each form required by and provided by the Department of Revenue;

(ii) Document that the insurance company has made at least two (2) written attempts to obtain the certificate of title and include the documentation with the request;

(iii) Include any fees applicable to the issuance of a salvage certificate of title or a parts-only certificate of title; and

(iv) Be signed under penalty of perjury.

(6) (a) If an insurance company is unable to obtain the properly endorsed certificate of title within thirty (30) days after disbursing a total loss settlement payment for a motor

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vehicle that has a lien or encumbrance, the insurance company or its agent shall submit documentation to the Department of Revenue from the claims file that establishes the lienholder's interest was protected in the total loss indemnity payment for the claim.

(b) The documentation under paragraph (a) of this subsection shall be:

(i) Submitted with a request for a salvage certificate of title or a parts-only certificate of title for the vehicle; and

(ii) The requirements under subsection (5)(b) of this section.

(7) Upon receipt of a properly endorsed certificate of title or a properly executed request under subsection (5) of this section, the Department of Revenue shall issue a salvage certificate of title or a parts-only certificate of title for the vehicle in the name of the insurance company.

(8) The Department of Revenue may promulgate rules, regulations and forms for the administration of subsections (4) through (6) of this section.

(9) This section shall stand repealed on July 1, 2014.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

House Bill 1418

Description: Fire service agencies; authorize to enter into mutual aid agreements.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (H) Referred To County Affairs
- 2 03/06 (H) Title Suff Do Pass Comm Sub
- 3 03/13 (H) Read the Third Time
- 4 03/15 (H) Committee Substitute Adopted
- 5 03/15 (H) Passed *(Vote)*
- 6 03/19 (H) Transmitted To Senate
- 7 03/22 (S) Referred To County Affairs; Accountability, Efficiency, Transparency
- 8 03/29 (S) DR - TSDP: CA To AC
- 9 04/03 (S) Title Suff Do Pass
- 10 04/04 (S) Passed *(Vote)*
- 11 04/05 (S) Transmitted To House
- 12 04/11 (S) Enrolled Bill Signed
- 13 04/11 (H) Enrolled Bill Signed
- 14 04/17 Approved by Governor

Code Section: A 033-0015-0019, A 033-0015-0017

----- Additional Information -----

House Committee: County Affairs

Senate Committee: County Affairs, Accountability, Efficiency, Transparency

Principal Author: DeLano

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Representative DeLano

To: County Affairs

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1418

AN ACT TO AMEND SECTION 33-15-19, MISSISSIPPI CODE OF 1972, TO AUTHORIZE FIRE SERVICE AGENCIES TO ENTER INTO MUTUAL AID AGREEMENTS WITH OTHER JURISDICTIONS; TO AMEND SECTION 33-15-17, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 33-15-19, Mississippi Code of 1972, is amended as follows:

33-15-19. (a) The governing body of a municipality or county of the state is authorized to participate in the Statewide Mutual Aid Compact (SMAC) established by the agency as a mechanism to standardize mutual aid arrangements between jurisdictions within the state. SMAC provides guidelines for requesting and receiving mutual aid, liability protection and reimbursement procedures for providing such aid. The governing body of each political subdivision of the state is strongly encouraged to sign and ratify the SMAC for mutual aid between their jurisdiction and other cities or counties within the state. A copy of this agreement must be signed by the senior elected official of the jurisdiction and the director and will be maintained on file by the agency.

(b) Political subdivisions of the state, including their fire service agencies, are also authorized to develop and enter into mutual aid agreements with other jurisdictions outside the state for reciprocal emergency aid and assistance in case of emergencies too extensive to be dealt with unassisted. This shall also include emergencies outside the state in which it is geographically reasonable for a political subdivision of this

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state, or its fire service, to respond. Copies of the agreements shall be sent to the agency and shall be consistent with the state comprehensive emergency management plan and program, and in time of emergency it shall be the duty of each local emergency management organization to render assistance in accordance with the provisions of such mutual aid agreements.

(c) The Governor may enter into compacts with any state or group of states if he finds that joint action with that state or group of states is desirable in meeting common intergovernmental problems of emergency management planning or emergency prevention, mitigation, response and recovery.

(1) Political subdivisions of the state, including their fire service agencies, shall not be liable for the death of or any injury to persons, or damage to property and all other protections provided in Section 33-15-21(a), as a result of mutual aid agreements entered into pursuant to this statute.

(2) Employees of a political subdivision of this state shall have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment and all other benefits provided by Section 33-15-15.

SECTION 2. Section 33-15-17, Mississippi Code of 1972, is amended as follows:

33-15-17. (a) Each county and municipality, or counties and the municipalities therein acting jointly, or two (2) or more counties acting jointly, of this state are hereby authorized and directed to establish a local organization for emergency management in accordance with the state emergency management plan and program, if required and authorized so to do by such state emergency management plan. Each local organization for emergency management shall have a director who shall be appointed by the governing body of the political subdivision, or political subdivisions acting jointly, and who shall have direct responsibility for the organization, administration and operation

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of such local organization for emergency management, subject to the direction and control of such governing body. Each local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of the state emergency management plan. Each county shall develop an emergency management plan and program that is coordinated and consistent with the State Comprehensive Emergency Management Plan and program. Counties that are part of an interjurisdictional emergency management agreement entered into pursuant to this section shall cooperatively develop an emergency management plan and program that is coordinated and consistent with the state emergency management plan and program.

(b) In carrying out the provisions of this article each county and municipality, or the two (2) acting jointly, or two (2) or more counties acting jointly, where there is joint organization, in which any disaster as described in Section 33-15-5 occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each county and municipality is authorized to exercise the powers vested under this section in the light of the exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes and the appropriation and expenditure of public funds.

(c) Each county and each municipality, or two (2) or more counties acting jointly, shall have the power and authority:

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(1) To appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any enemy attack or man-made, technological or natural disasters; and to direct and coordinate the development of emergency management plans and programs in accordance with the policies and plans set by the federal and state emergency management agencies;

(2) To appoint, employ, remove, or provide, with or without compensation, air raid wardens, rescue teams, auxiliary fire and police personnel, and other emergency management workers;

(3) To establish, as necessary, a primary and one or more secondary emergency operating centers to provide continuity of government, and direction and control of emergency operation during an emergency;

(4) To donate public funds, supplies, labor and equipment to assist any governmental entity in a county or municipality in which a disaster as described in Section 33-15-5 occurs;

(5) Subject to the order of the Governor, or the chief executive of the political subdivision, to assign and make available for duty, the employees, property or equipment of the subdivision relating to fire fighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for emergency management purposes either within or outside of the limits of the subdivision;

(6) Subject to the order of the chief executive of the county or municipality or the Governor to order the evacuation of any area subject to an impending or existing enemy attack or man-made, technological or natural disaster;

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(7) Subject to the order of the chief executive of the county or municipality or the Governor, to control or restrict egress, ingress and movement within the disaster area to the degree necessary to facilitate the protection of life and property;

(8) To enter into mutual aid agreements in the manner authorized by Section 33-15-19.

(d) A local emergency as defined in Section 33-15-5 may be proclaimed by the mayor or governing body of a municipality or the governing body of a county. In the event a local emergency is proclaimed by the mayor of a municipality, the governing body of such municipality shall review and approve or disapprove the need for continuing the local emergency at its first regular meeting following such proclamation or at a special meeting legally called for such review. Thereafter, the governing body shall review the need for continuing the local emergency at least every thirty (30) days until such local emergency is terminated, and shall proclaim the termination of such local emergency at the earliest possible date that conditions warrant. During a local emergency, the governing body of a political subdivision may promulgate orders and regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread notice and publicity. The authorization granted by this section to impose a curfew shall not be construed as restricting in any manner the existing authority to impose a curfew pursuant to police power for any other lawful purpose.

SECTION 3. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2119

Description: Memorial highway; designate certain segment of U.S. Highway 78 as William R. "Bill" Minor Memorial Highway.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 01/16 (S) Referred To Highways and Transportation
- 2 03/06 (S) Title Suff Do Pass
- 3 03/08 (S) Passed *{Vote}*
- 4 03/08 (S) Immediate Release
- 5 03/08 (S) Transmitted To House
- 6 03/14 (H) Referred To Transportation
- 7 03/28 (H) Title Suff Do Pass
- 8 04/04 (H) Passed *{Vote}*
- 9 04/05 (H) Transmitted To Senate
- 10 04/09 (S) Enrolled Bill Signed
- 11 04/10 (H) Enrolled Bill Signed
- 12 04/16 Approved by Governor

----- Additional Information -----

Senate Committee: Highways and Transportation

House Committee: Transportation

Principal Author: Stone

Additional Authors: Gollott, Fillingane, Kirby, Jordan, Watson, Chassaniol, Horhn, Frazier, Jackson (11th), Jackson (32nd), Flowers, Gandy, Wilemon, Lee, Tindell, Sojourner, Parks, Carmichael, Jackson (15th), Massey, Montgomery, Moran, Smith, Jolly, Butler (36th), Clarke, Hale

2012 GENERAL LAWS OF MISSISSIPPI, SB 2119

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Stone, Gollott, Fillingane,
Kirby, Jordan, Watson, Chassaniol, Horhn,
Frazier, Jackson (11th), Jackson (32nd),
Flowers, Gandy, Wilemon, Lee, Tindell,
Sojourner, Parks, Carmichael, Jackson (15th),
Massey, Montgomery, Moran, Smith, Jolly,
Butler (36th), Clarke, Hale

To: Highways and
Transportation

SENATE BILL NO. 2119

AN ACT TO DESIGNATE A CERTAIN SEGMENT OF U.S. HIGHWAY 78
WITHIN MISSISSIPPI AS THE WILLIAM R. "BILL" MINOR MEMORIAL
HIGHWAY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) That segment of highway that is designated
as U.S. Highway 78 and will be redesignated as Interstate 22
beginning at the Marshall/DeSoto county line and extending to the
Benton/Union county line shall be known and designated as the
William R. "Bill" Minor Memorial Highway.

(2) The Mississippi Department of Transportation shall erect
and maintain appropriate signs along and approaching the highway.

SECTION 2. This act shall take effect and be in force from
and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2187

Description: Corrections; extend repeal date on the Prison Overcrowding Emergency Powers Act.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 01/20 (S) Referred To Corrections
- 2 03/01 (S) Title Suff Do Pass Comm Sub
- 3 03/07 (S) Committee Substitute Adopted
- 4 03/07 (S) Passed Vote
- 5 03/08 (S) Transmitted To House
- 6 03/21 (H) Referred To Corrections
- 7 03/22 (H) Title Suff Do Pass
- 8 03/26 (H) Passed Vote
- 9 03/27 (H) Transmitted To Senate
- 10 03/30 (S) Enrolled Bill Signed
- 11 04/02 (H) Enrolled Bill Signed
- 12 04/05 Approved by Governor

Code Section: R 047-0005-0701, R 047-0005-0703, R 047-0005-0705, R 047-0005-0707, R 047-0005-0709, R 047-0005-0711, R 047-0005-0713, R 047-0005-0715, R 047-0005-0717, R 047-0005-0719, R 047-0005-0721, R 047-0005-0723, R 047-0005-0725, R 047-0005-0727, R 047-0005-0729, RA 047-0005-0731

---- Additional Information ----

Senate Committee: Corrections

House Committee: Corrections

Principal Author: Jackson (32nd)

Additional Authors: Jackson (11th)

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Jackson (32nd), Jackson
(11th)

To: Corrections

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2187

AN ACT TO REENACT SECTIONS 47-5-701, 47-5-703, 47-5-705, 47-5-707, 47-5-709, 47-5-711, 47-5-713, 47-5-715, 47-5-717, 47-5-719, 47-5-721, 47-5-723, 47-5-725, 47-5-727 AND 47-5-729, MISSISSIPPI CODE OF 1972, WHICH CREATE THE PRISON OVERCROWDING EMERGENCY POWERS ACT; TO REENACT AND AMEND SECTION 47-5-731, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEAL DATE TO JULY 1, 2014, ON THE PRISON OVERCROWDING EMERGENCY POWERS ACT IN SECTIONS 47-5-701 THROUGH 47-5-729; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 47-5-701, Mississippi Code of 1972, is reenacted as follows:

47-5-701. Sections 47-5-701 through 47-5-729 shall be known and may be cited as the "Prison Overcrowding Emergency Powers Act."

SECTION 2. Section 47-5-703, Mississippi Code of 1972, is reenacted as follows:

47-5-703. For the purposes of Sections 47-5-701 through 47-5-729 the following words shall have the meaning ascribed herein unless the context shall otherwise require:

(a) "Inmate" means every person who at the time of the declaration of a prison system overcrowding state of emergency, or at any time during the continuation of a state of emergency, is incarcerated by the Mississippi Department of Corrections as a result of a commitment to the department, including persons committed to the department and incarcerated in local or county jails or other facilities authorized to house state inmates.

(b) "Operating capacity" means the total number of state inmates which can be safely and reasonably housed in facilities operated by the Department of Corrections and in local

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or county jails or other facilities authorized to house state inmates as certified by the department, subject to applicable federal and state laws and rules and regulations.

(c) "Parole eligibility date" means the date on which an inmate becomes eligible for release by parole under the provisions of Section 47-7-3, Mississippi Code of 1972. For the purposes of Sections 47-5-701 through 47-5-729, an inmate with a sentence of one (1) year shall be deemed to have a parole eligibility date which shall be the last day of his sentence.

(d) "Prison" means any correctional facility operated by the Mississippi Department of Corrections.

(e) "Prison system" means the prisons operated by the Mississippi Department of Corrections and those local or county jails or other facilities authorized to house state inmates.

(f) "Prison system population" means the total number of state inmates housed in the prisons operated by the Mississippi Department of Corrections and in those local or county jails or other facilities authorized to house state inmates.

(g) "Qualified inmate" means inmates who are not incarcerated for convictions of murder, kidnapping, arson, armed robbery, rape, sexual offenses or any offense involving the use of a deadly weapon and who are within that number of days of their parole eligibility date at the time of the declaration of the state of emergency as is specified to be conditionally advanced under the declaration of the state of emergency. An inmate sentenced as an habitual offender shall not be considered a "qualified inmate."

(h) "State of emergency" means a prison system overcrowding state of emergency as provided in Section 47-5-711.

SECTION 3. Section 47-5-705, Mississippi Code of 1972, is reenacted as follows:

47-5-705. The requirements for the declaration of a prison system overcrowding state of emergency are as follows:

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(a) Prison system population in excess of ninety-five percent (95%) of the prison system operating capacity for at least thirty (30) consecutive days immediately preceding the declaration of a state of emergency;

(b) Full appropriate utilization by the Mississippi Department of Corrections of powers which tend either to reduce prison system population or expand operating capacity. Such powers include, but are not limited to, earned time allowances as specified in Sections 47-5-138 and 47-5-139, Mississippi Code of 1972, review of offenders for purposes of reclassification, reevaluation of persons eligible for consideration for work release, supervised earned release or other release programs authorized by law and arrangements for housing inmates of the Department of Corrections in local or county jails or other facilities authorized to house state inmates; and

(c) Full appropriate utilization by the State Parole Board of those powers which tend to reduce the prison system population. Such powers include, but are not limited to, parole as provided in Section 47-7-3, Mississippi Code of 1972, the review of inmates who have had their parole revoked and the reevaluation of inmates previously denied parole.

SECTION 4. Section 47-5-707, Mississippi Code of 1972, is reenacted as follows:

47-5-707. Whenever the prison system population exceeds ninety-five percent (95%) of operating capacity, the Commissioner of Corrections shall immediately notify the Governor and the State Parole Board of this fact. The notice shall include the current prison system population and the prison system operating capacity. A report must be made within ten (10) days after the thirtieth day of operating in excess of ninety-five percent (95%) of operating capacity. The report shall include the prison system operating capacity, the prison system population during the relevant time

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period, and may include a recommended specific term of advancement of the parole eligibility dates.

SECTION 5. Section 47-5-709, Mississippi Code of 1972, is reenacted as follows:

47-5-709. If the prison system population exceeds ninety-five percent (95%) of operating capacity for thirty (30) consecutive days, the State Parole Board shall meet to determine whether there has been full appropriate exercise of the powers of the State Parole Board which tend to reduce the prison system population. The State Parole Board shall report its findings to the Governor within ten (10) days after the thirtieth day of operating in excess of ninety-five percent (95%) of prison operating capacity. The report shall include the determination of the State Parole Board regarding its utilization of powers described in paragraph (c) of Section 47-5-705.

SECTION 6. Section 47-5-711, Mississippi Code of 1972, is reenacted as follows:

47-5-711. Upon receipt of the report from the Commissioner of Corrections and the report of the State Parole Board, the Governor has the power to:

- (a) Determine to be in error the determination that there had been full appropriate exercise of powers which tends to reduce prison population, in which case no state of emergency shall commence;
- (b) Determine that commencement of a state of emergency would be injurious to the public good, or raises the potential of threatening the safety of the public in the state as a whole or in a particular community, in which case no state of emergency shall commence; or
- (c) Determine that the reports establish the existence of the conditions for a declaration of a prison system overcrowding state of emergency as described in Section 47-5-705 and declare a state of emergency, specifying an amount of

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advancement of parole eligibility dates from thirty (30) to ninety (90) days.

If fourteen (14) days after the receipt of the reports to the Governor pursuant to Sections 47-5-707 and 47-5-709 the Governor has not exercised any of the powers specified in paragraphs (a), (b) and (c) of this section, action under Sections 47-5-701 through 47-5-729 is considered terminated.

If the Governor exercises a power under paragraph (a) or (b) of this section, he shall state the reasons for the exercise of such power in the notification of his action to the Commissioner of Corrections and the State Parole Board.

SECTION 7. Section 47-5-713, Mississippi Code of 1972, is reenacted as follows:

47-5-713. Upon the declaration of a state of emergency, the parole eligibility dates of qualified inmates shall be conditionally advanced. The amount of advancement of parole eligibility dates must be specified in the declaration by the Governor. When the state of emergency has been terminated, the parole eligibility dates which were conditionally advanced shall be reset to the parole eligibility date set prior to the emergency for those inmates who were not released on parole under the provisions of Sections 47-5-701 through 47-5-729.

SECTION 8. Section 47-5-715, Mississippi Code of 1972, is reenacted as follows:

47-5-715. During the continuation of a state of emergency, the Commissioner of the Department of Corrections shall weekly certify to the Governor the prison system population for each day of the preceding week. The Governor shall declare the state of emergency terminated upon notification that the prison system population has been at or below ninety-five percent (95%) of operating capacity for seven (7) consecutive days.

If no declaration of termination is issued within seven (7) days after the certification of conditions for termination of the

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state of emergency, the state of emergency is considered terminated as of the seventh day after the certification.

SECTION 9. Section 47-5-717, Mississippi Code of 1972, is reenacted as follows:

47-5-717. If sixty (60) days after the declaration of a prison system overcrowding state of emergency or of an additional advancement of the parole eligibility dates the prison system population continues to be in excess of ninety-five percent (95%) of operating capacity, the Commissioner of Corrections shall report to the Governor indicating whether an additional advancement of the parole eligibility dates is necessary in order to reduce the prison system population to ninety-five percent (95%) of operating capacity and indicating the amount of any recommended additional advancement of the parole eligibility dates. The recommended amount must be no less than thirty (30) days nor more than ninety (90) days. The report shall include those factors which would tend to indicate that the prison system population is likely to increase above operating capacity within ninety (90) days. The report shall discuss the availability of field supervisors, the currently existing supervision case loads, and the measures that could be taken and the resources that would be needed to provide appropriate supervision of persons released early as a result of an additional advancement of the parole eligibility dates.

SECTION 10. Section 47-5-719, Mississippi Code of 1972, is reenacted as follows:

47-5-719. Upon receipt of the report from the Commissioner of Corrections as provided in Section 47-5-717, the Governor has the power to:

(a) Determine to be in error any conclusion of the Commissioner of Corrections that an additional advancement of the parole eligibility dates is necessary in order for the prison system population to be reduced to ninety-five percent (95%) of

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operating capacity, in which case no additional advancements of the parole eligibility dates shall occur;

(b) Determine that the ordering of additional advancements of the parole eligibility dates would be injurious to the public good or raises the potential of threatening the safety of the public in the state as a whole or in a particular community, in which case no additional advancement of parole eligibility dates shall occur; or

(c) Determine that an additional advancement of the parole eligibility dates is necessary in order for the prison system population to be reduced to ninety-five percent (95%) of operating capacity and order additional advancements specifying the amount of additional advancements, which shall be at least thirty (30) and not more than ninety (90) days.

If fourteen (14) days after the receipt of the report to the Governor pursuant to Section 47-5-717 including a determination of the Commissioner of Corrections that an additional advancement of the parole eligibility dates is not necessary in order for the prison system population to be reduced to ninety-five percent (95%) of operating capacity the Governor has not exercised the power provided in paragraph (c) of this section, action initiated under Section 47-5-717 is considered terminated.

If the Governor exercises a power provided under paragraph (a) or (b) of this section, he shall state the reasons for the exercise of such power in the notification of his action to the Commissioner of Corrections and the State Parole Board.

If the Governor orders additional advancements of the parole eligibility dates under this section, the amount of advancement of the parole eligibility dates must be as ordered by the Governor.

SECTION 11. Section 47-5-721, Mississippi Code of 1972, is reenacted as follows:

47-5-721. If at any time during a state of emergency the Governor determines that the continuation of the state of

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emergency is injurious to the public good or raises the potential of threatening the safety of the public in the state as a whole or in a particular community, he may order the state of emergency terminated.

SECTION 12. Section 47-5-723, Mississippi Code of 1972, is reenacted as follows:

47-5-723. Revocation of the conditional advancement of the parole eligibility date is a permissible prison disciplinary action according to the same procedures governing the forfeiture of earned time allowances as a prison disciplinary action.

SECTION 13. Section 47-5-725, Mississippi Code of 1972, is reenacted as follows:

47-5-725. The State Parole Board shall prescribe conditions of advancement of the parole eligibility date applicable prior to an inmate's release. The State Parole Board shall prescribe conditions of supervision consistent with existing regulations applicable after release on parole. When an inmate is released under the provisions of Sections 47-5-701 through 47-5-729 he shall be considered to be in the legal custody of the Department of Corrections.

SECTION 14. Section 47-5-727, Mississippi Code of 1972, is reenacted as follows:

47-5-727. Advancement of parole eligibility dates under Sections 47-5-701 through 47-5-729 shall occur independently of all other adjustments of the parole eligibility dates, such as advancing the parole eligibility dates as a result of receiving earned time allowances.

SECTION 15. Section 47-5-729, Mississippi Code of 1972, is reenacted as follows:

47-5-729. The Commissioner of Corrections shall within thirty (30) days after April 10, 1985, establish the operating capacities of the prison system, and shall at least quarterly

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certify existing operating capacities or establish changed or new operating capacities.

SECTION 16. Section 47-5-731, Mississippi Code of 1972, is reenacted and amended as follows:

47-5-731. Sections 47-5-701 through 47-5-729, Mississippi Code of 1972, which create the Prison Overcrowding Emergency Powers Act, shall stand repealed from and after July 1, 2014.

SECTION 17. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

Senate Bill 2195

Description: Corrections; extend repeal date for Parole Board.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No





Vote type required: Three/Fifths

Effective date: Passage

History of Actions:

- 1 01/20 (S) Referred To Corrections
- 2 03/01 (S) Title Suff Do Pass Comm Sub
- 3 03/07 (S) Committee Substitute Adopted
- 4 03/07 (S) Passed *(Vote)*
- 5 03/08 (S) Transmitted To House
- 6 03/21 (H) Referred To Corrections
- 7 03/22 (H) Title Suff Do Pass
- 8 03/26 (H) Point of Order Raised
- 9 03/26 (H) Set Aside-Pend Ruling of Chair
- 10 03/27 (H) Amendment Ruled Improper
- 11 03/27 (H) Passed *(Vote)*
- 12 03/28 (H) Transmitted To Senate
- 13 03/30 (S) Enrolled Bill Signed
- 14 04/02 (H) Enrolled Bill Signed
- 15 04/05 Approved by Governor

Amendments:

-  [H] Amendment No 1 **Not Germane**
-  [H] Amendment No 2 **Lost** *(Vote)*
-  [H] Amendment No 3 **Lost** *(Vote)*
-  [H] Amendment No 4 **Lost** *(Vote)*

Code Section: A 047-0007-0005

----- Additional Information -----

2012 GENERAL LAWS OF MISSISSIPPI, SB 2195

Senate Committee: Corrections

House Committee: Corrections

Principal Author: Jackson (32nd)

Additional Authors: Jackson (11th)

2012 GENERAL LAWS OF MISSISSIPPI, SB 2195

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Jackson (32nd), Jackson
(11th)

To: Corrections

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2195

AN ACT TO AMEND SECTION 47-7-5, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEAL DATE TO JULY 1, 2014, FOR THE STATE PAROLE BOARD; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 47-7-5, Mississippi Code of 1972, is amended as follows:

47-7-5. (1) The State Parole Board, created under former Section 47-7-5, is hereby created, continued and reconstituted and shall be composed of five (5) members. The Governor shall appoint the members with the advice and consent of the Senate. All terms shall be at the will and pleasure of the Governor. Any vacancy shall be filled by the Governor, with the advice and consent of the Senate. The Governor shall appoint a chairman of the board.

(2) Any person who is appointed to serve on the board shall possess at least a bachelor's degree or a high school diploma and four (4) years' work experience. Each member shall devote his full time to the duties of his office and shall not engage in any other business or profession or hold any other public office. A member shall not receive compensation or per diem in addition to his salary as prohibited under Section 25-3-38. Each member shall keep such hours and workdays as required of full-time state employees under Section 25-1-98. Individuals shall be appointed to serve on the board without reference to their political affiliations. Each board member, including the chairman, may be reimbursed for actual and necessary expenses as authorized by Section 25-3-41.

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(3) The board shall have exclusive responsibility for the granting of parole as provided by Sections 47-7-3 and 47-7-17 and shall have exclusive authority for revocation of the same. The board shall have exclusive responsibility for investigating clemency recommendations upon request of the Governor.

(4) The board, its members and staff, shall be immune from civil liability for any official acts taken in good faith and in exercise of the board's legitimate governmental authority.

(5) The budget of the board shall be funded through a separate line item within the general appropriation bill for the support and maintenance of the department. Employees of the department which are employed by or assigned to the board shall work under the guidance and supervision of the board. There shall be an executive secretary to the board who shall be responsible for all administrative and general accounting duties related to the board. The executive secretary shall keep and preserve all records and papers pertaining to the board.

(6) The board shall have no authority or responsibility for supervision of offenders granted a release for any reason, including, but not limited to, probation, parole or executive clemency or other offenders requiring the same through interstate compact agreements. The supervision shall be provided exclusively by the staff of the Division of Community Corrections of the department.

(7) (a) The Parole Board is authorized to select and place offenders in an electronic monitoring program under the conditions and criteria imposed by the Parole Board. The conditions, restrictions and requirements of Section 47-7-17 and Sections 47-5-1001 through 47-5-1015 shall apply to the Parole Board and any offender placed in an electronic monitoring program by the Parole Board.

(b) Any offender placed in an electronic monitoring program under this subsection shall pay the program fee provided

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in Section 47-5-1013. The program fees shall be deposited in the special fund created in Section 47-5-1007.

(c) The department shall have absolute immunity from liability for any injury resulting from a determination by the Parole Board that an offender be placed in an electronic monitoring program.

(8) (a) The Parole Board shall maintain a central registry of paroled inmates. The Parole Board shall place the following information on the registry: name, address, photograph, crime for which paroled, the date of the end of parole or flat-time date and other information deemed necessary. The Parole Board shall immediately remove information on a parolee at the end of his parole or flat-time date.

(b) When a person is placed on parole, the Parole Board shall inform the parolee of the duty to report to the parole officer any change in address ten (10) days before changing address.

(c) The Parole Board shall utilize an Internet website or other electronic means to release or publish the information.

(d) Records maintained on the registry shall be open to law enforcement agencies and the public and shall be available no later than July 1, 2003.

(9) An affirmative vote of at least four (4) members of the Parole Board shall be required to grant parole to an inmate convicted of capital murder or a sex crime.

(10) This section shall stand repealed on July 1, 2014.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session
Senate Bill 2196

Description: Corrections; extend repeal date on state offenders serving sentences in county jails.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 01/20 (S) Referred To Corrections
- 2 03/01 (S) Title Suff Do Pass Comm Sub
- 3 03/07 (S) Committee Substitute Adopted
- 4 03/07 (S) Passed 15 yeas
- 5 03/08 (S) Transmitted To House
- 6 03/21 (H) Referred To Corrections
- 7 03/22 (H) Title Suff Do Pass
- 8 03/26 (H) Passed 10 yeas
- 9 03/27 (H) Motion to Reconsider Entered (Buck (5th), Flaggs, Huddleston (30th))
- 10 03/29 (H) Motion to Reconsider Tabled
- 11 03/29 (H) Transmitted To Senate
- 12 04/02 (S) Enrolled Bill Signed
- 13 04/03 (H) Enrolled Bill Signed
- 14 04/05 Approved by Governor

Code Section: R 047-0005-0901, R 047-0005-0903, R 047-0005-0905, R 047-0005-0907, R 047-0005-0909, RA 047-0005-0911

---- Additional Information ----

Senate Committee: Corrections

House Committee: Corrections

Principal Author: Jackson (32nd)

Additional Authors: Jackson (11th)

2012 GENERAL LAWS OF MISSISSIPPI, SB 2196

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Jackson (32nd), Jackson
(11th)

To: Corrections

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2196

AN ACT TO REENACT SECTIONS 47-5-901, 47-5-903, 47-5-905, 47-5-907 AND 47-5-909, MISSISSIPPI CODE OF 1972, WHICH ADDRESS STATE OFFENDERS SERVING SENTENCES IN COUNTY JAILS; TO REENACT AND AMEND SECTION 47-5-911, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEAL DATE TO JULY 1, 2014, FOR SECTIONS 47-5-901 THROUGH 47-5-911; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 47-5-901, Mississippi Code of 1972, is reenacted as follows:

47-5-901. (1) Any person committed, sentenced or otherwise placed under the custody of the Department of Corrections, on order of the sentencing court and subject to the other conditions of this subsection, may serve all or any part of his sentence in the county jail of the county wherein such person was convicted if the Commissioner of Corrections determines that physical space is not available for confinement of such person in the state correctional institutions. Such determination shall be promptly made by the Department of Corrections upon receipt of notice of the conviction of such person. The commissioner shall certify in writing that space is not available to the sheriff or other officer having custody of the person. Any person serving his sentence in a county jail shall be classified in accordance with Section 47-5-905.

(2) If state prisoners are housed in county jails due to a lack of capacity at state correctional institutions, the Department of Corrections shall determine the cost for food and medical attention for such prisoners. The cost of feeding and housing offenders confined in such county jails shall be based on

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actual costs or contract price per prisoner. In order to maximize the potential use of county jail space, the Department of Corrections is encouraged to negotiate a reasonable per day cost per prisoner, which in no event may exceed Twenty Dollars (\$20.00) per day per offender.

(3) (a) Upon vouchers submitted by the board of supervisors of any county housing persons due to lack of space at state institutions, the Department of Corrections shall pay to such county, out of any available funds, the actual cost of food, or contract price per prisoner, not to exceed Twenty Dollars (\$20.00) per day per offender, as determined under subsection (2) of this section for each day an offender is so confined beginning the day that the Department of Corrections receives a certified copy of the sentencing order and will terminate on the date on which the offender is released or otherwise removed from the custody of the county jail. The department, or its contracted medical provider, will pay to a provider of a medical service for any and all incarcerated persons from a correctional or detention facility an amount based upon negotiated fees as agreed to by the medical care service providers and the department and/or its contracted medical provider. In the absence of negotiated discounted fee schedule, medical care service providers will be paid by the department, or its contracted medical service provider, an amount no greater than the reimbursement rate applicable based on the Mississippi Medicaid reimbursement rate. The board of supervisors of any county shall not be liable for any cost associated with medical attention for prisoners who are pretrial detainees or for prisoners who have been convicted that exceeds the Mississippi Medicaid reimbursement rate or the reimbursement provided by the Department of Corrections, whichever is greater. This limitation applies to all medical care services, durable and nondurable goods, prescription drugs and medications. Such payment shall be

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placed in the county general fund and shall be expended only for food and medical attention for such persons.

(b) Upon vouchers submitted by the board of supervisors of any county housing offenders in county jails pending a probation or parole revocation hearing, the department shall pay, out of any available funds, the reimbursement costs provided in paragraph (a).

(c) If the probation or parole of an offender is revoked, the additional cost of housing the offender pending the revocation hearing shall be assessed as part of the offender's court cost and shall be remitted to the department.

(4) A person, on order of the sentencing court, may serve not more than twenty-four (24) months of his sentence in a county jail if the person is classified in accordance with Section 47-5-905 and the county jail is an approved county jail for housing state inmates under federal court order. The sheriff of the county shall have the right to petition the Commissioner of Corrections to remove the inmate from the county jail. The county shall be reimbursed in accordance with subsection (2).

(5) The Attorney General of the State of Mississippi shall defend the employees of the Department of Corrections and officials and employees of political subdivisions against any action brought by any person who was committed to a county jail under the provisions of this section.

(6) This section does not create in the Department of Corrections, or its employees or agents, any new liability, express or implied, nor shall it create in the Department of Corrections any administrative authority or responsibility for the construction, funding, administration or operation of county or other local jails or other places of confinement which are not staffed and operated on a full-time basis by the Department of Corrections. The correctional system under the jurisdiction of the Department of Corrections shall include only those facilities

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fully staffed by the Department of Corrections and operated by it on a full-time basis.

(7) An offender returned to a county for post-conviction proceedings shall be subject to the provisions of Section 99-19-42 and the county shall not receive the per day allotment for such offender after the time prescribed for returning the offender to the Department of Corrections as provided in Section 99-19-42.

SECTION 2. Section 47-5-903, Mississippi Code of 1972, is reenacted as follows:

47-5-903. (1) A person committed, sentenced or otherwise placed under the custody of the Department of Corrections, on order of the sentencing court, may serve his sentence in the county jail of the county where convicted if all of the following conditions are complied with:

(a) The person must be classified in accordance with Section 47-5-905;

(b) The person must not be classified as in need of close supervision;

(c) The sheriff of the county where the person will serve his sentence must request in writing that the person be allowed to serve his sentence in that county jail;

(d) After the person is classified and returned to the county, the county shall assume the full and complete responsibility for the care and expenses of housing such person; and

(e) The county jail must be an approved county jail for housing state inmates under federal court order.

(2) This section does not apply to inmates housed in county jails due to lack of space at state correctional facilities. The department shall not reimburse the county for the expense of housing an inmate under this section.

(3) The Attorney General of the State of Mississippi shall defend the employees of the Department of Corrections and

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officials and employees of political subdivisions against any action brought by any person who was committed to a county jail under the provisions of this section.

(4) The state, the Department of Corrections, and its employees or agents, shall not be liable to any person or entity for an inmate held in a county jail under this section.

SECTION 3. Section 47-5-905, Mississippi Code of 1972, is reenacted as follows:

47-5-905. (1) All persons placed under the custody of the Department of Corrections shall be processed at a reception and diagnostic center of the Department of Corrections and then be assigned to an appropriate correctional facility for a complete and thorough classification, not to exceed ninety (90) days, unless the department determines that a person can be properly processed and classified at the county jail in accordance with the department's classification plan.

(2) The Department of Corrections shall develop a plan for the processing and classification of inmates in county jails and shall implement the plan by January 1, 1993.

SECTION 4. Section 47-5-907, Mississippi Code of 1972, is reenacted as follows:

47-5-907. The sheriff of any county in this state shall have the right to petition the Commissioner of the Department of Corrections to remove a state inmate from the county jail in such county to the State Penitentiary. The commissioner shall remove such inmate from such county jail if the sheriff of such county sets forth just cause in his petition indicating why an inmate should be removed from such county jail to the State Penitentiary.

Just cause is established if such sheriff can sufficiently prove that such inmate has a dangerous behavior or sufficiently prove that there is no available or suitable medical facility where such inmate can be provided suitable medical services. The commissioner shall respond in writing to the petition no later

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than thirty (30) days after the receipt of such petition. If the petition to remove such inmate is denied by the commissioner, such sheriff and his agents shall have from the date of denial absolute immunity from liability for any injury resulting from subsequent behavior or from medical consequences regarding such inmate, provided that such injury resulted from conditions which were set forth in such petition.

SECTION 5. Section 47-5-909, Mississippi Code of 1972, is reenacted as follows:

47-5-909. It is the policy of the Legislature that all inmates be removed from county jails as early as practicable. Sections 47-5-901 through 47-5-907 are temporary measures to help alleviate the immediate operating capacity limitations at correctional facilities and are not permanent measures to be included in the long-term operating capacity of the correctional system.

SECTION 6. Section 47-5-911, Mississippi Code of 1972, is reenacted and amended as follows:

47-5-911. Sections 47-5-901 through 47-5-911 shall stand repealed on July 1, 2014.

SECTION 7. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

Senate Bill 2197

Description: Corrections; extend repeal date on intensive home supervision programs and electronic home detention.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: Passage

History of Actions:

- 1 01/20 (S) Referred To Corrections
- 2 03/01 (S) Title Suff Do Pass Comm Sub
- 3 03/07 (S) Committee Substitute Adopted
- 4 03/07 (S) Passed Vote
- 5 03/08 (S) Transmitted To House
- 6 03/21 (H) Referred To Corrections
- 7 03/22 (H) Title Suff Do Pass
- 8 03/26 (H) Passed Vote
- 9 03/27 (H) Motion to Reconsider Entered (Buck (5th), Flaggs, Huddleston (30th))
- 10 03/29 (H) Motion to Reconsider Tabled
- 11 03/29 (H) Transmitted To Senate
- 12 04/02 (S) Enrolled Bill Signed
- 13 04/03 (H) Enrolled Bill Signed
- 14 04/05 Approved by Governor

Code Section: R 047-0005-1001, R 047-0005-1003, R 047-0005-1005, R 047-0005-1007, R 047-0005-1009, R 047-0005-1011, R 047-0005-1013, R 047-0005-1014, RA 047-0005-1015

----- Additional Information -----

Senate Committee: Corrections

House Committee: Corrections

Principal Author: Jackson (32nd)

2012 GENERAL LAWS OF MISSISSIPPI, SB 2197

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Jackson (32nd)

To: Corrections

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2197

AN ACT TO REENACT SECTIONS 47-5-1001, 47-5-1003, 47-5-1005, 47-5-1007, 47-5-1009, 47-5-1011, 47-5-1013 AND 47-5-1014, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR INTENSIVE SUPERVISION PROGRAMS AND ELECTRONIC HOME DETENTION; TO REENACT AND AMEND SECTION 47-5-1015, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEAL DATE TO JUNE 30, 2014, FOR SECTIONS 47-5-1001 THROUGH 47-5-1015; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 47-5-1001, Mississippi Code of 1972, is reenacted as follows:

47-5-1001. For purposes of Sections 47-5-1001 through 47-5-1015, the following words shall have the meaning ascribed herein unless the context shall otherwise require:

(a) "Approved electronic monitoring device" means a device approved by the department which is primarily intended to record and transmit information regarding the offender's presence or nonpresence in the home.

(b) "Correctional field officer" means the supervising probation and parole officer in charge of supervising the offender.

(c) "Court" means a circuit court having jurisdiction to place an offender to the intensive supervision program.

(d) "Department" means the Department of Corrections.

(e) "House arrest" means the confinement of a person convicted or charged with a crime to his place of residence under the terms and conditions established by the department or court.

(f) "Operating capacity" means the total number of state offenders which can be safely and reasonably housed in facilities operated by the department and in local or county jails

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or other facilities authorized to house state offenders as certified by the department, subject to applicable federal and state laws and rules and regulations.

(g) "Participant" means an offender placed into an intensive supervision program.

SECTION 2. Section 47-5-1003, Mississippi Code of 1972, is reenacted as follows:

47-5-1003. (1) An intensive supervision program may be used as an alternative to incarceration for offenders who are low risk and nonviolent as selected by the department or court and for juvenile offenders as provided in Section 43-21-605. Any offender convicted of a sex crime shall not be placed in the program.

(2) The court or the department may place the defendant on intensive supervision, except when a death sentence or life imprisonment is the maximum penalty which may be imposed or if the defendant has been convicted of a felony committed after having been confined for the conviction of a felony on a previous occasion in any court or courts of the United States and of any state or territories thereof or has been convicted of a felony involving the use of a deadly weapon.

(3) To protect and to ensure the safety of the state's citizens, any offender who violates an order or condition of the intensive supervision program may be arrested by the correctional field officer and placed in the actual custody of the Department of Corrections. Such offender is under the full and complete jurisdiction of the department and subject to removal from the program by the classification hearing officer.

(4) When any circuit or county court places an offender in an intensive supervision program, the court shall give notice to the Mississippi Department of Corrections within fifteen (15) days of the court's decision to place the offender in an intensive supervision program. Notice shall be delivered to the central office of the Mississippi Department of Corrections and to the

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regional office of the department which will be providing supervision to the offender in an intensive supervision program.

The courts may not require an offender to participate in the intensive supervision program during a term of probation or post-release supervision.

(5) The Department of Corrections shall submit a report to the chairperson of the House Corrections Committee and the chairperson of the Senate Corrections Committee on the effectiveness of the intensive supervision program before January 1, 2010.

SECTION 3. Section 47-5-1005, Mississippi Code of 1972, is reenacted as follows:

47-5-1005. (1) The department shall promulgate rules that prescribe reasonable guidelines under which an intensive supervision program shall operate. These rules shall include, but not be limited to, the following:

(a) The participant shall remain within the interior premises or within the property boundaries of his or her residence at all times during the hours designated by the correctional field officer.

(b) Approved absences from the home may include, but are not limited to, the following:

(i) Working or employment approved by the court or department and traveling to or from approved employment;

(ii) Unemployed and seeking employment approved for the participant by the court or department;

(iii) Undergoing medical, psychiatric, mental health treatment, counseling or other treatment programs approved for the participant by the court or department;

(iv) Attending an educational institution or a program approved for the participant by the court or department;

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(v) Participating in community work release or a community service program approved for the participant by the court or department; or

(vi) For another compelling reason consistent with the public interest, as approved by the court or department.

(c) Except in case of a medical emergency and approval by the Commissioner of the Department of Corrections, or his designee, or by circuit court order for medical purposes, no participant in the intensive supervision program may leave the jurisdiction of the State of Mississippi.

(2) The department shall select and approve all electronic monitoring devices used under Sections 47-5-1001 through 47-5-1015.

(3) The department may lease the equipment necessary to implement the intensive supervision program and to contract for the monitoring of such devices. The department is authorized to select the lowest price and best source in contracting for these services.

SECTION 4. Section 47-5-1007, Mississippi Code of 1972, is reenacted as follows:

47-5-1007. (1) Any participant in the intensive supervision program who engages in employment shall pay a monthly fee to the department for each month such person is enrolled in the program. The department may waive the monthly fee if the offender is a full-time student or is engaged in vocational training. Juvenile offenders shall pay a monthly fee of not less than Ten Dollars (\$10.00) but not more than Fifty Dollars (\$50.00) based on a sliding scale using the standard of need for each family that is used to calculate TANF benefits. Money received by the department from participants in the program shall be deposited into a special fund which is hereby created in the State Treasury. It shall be used, upon appropriation by the Legislature, for the purpose of helping to defray the costs involved in administering and

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supervising such program. Unexpended amounts remaining in such special fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in such special fund shall be deposited to the credit of the special fund.

(2) The participant shall admit any correctional officer into his residence at any time for purposes of verifying the participant's compliance with the conditions of his detention.

(3) The participant shall make the necessary arrangements to allow for correctional officers to visit the participant's place of education or employment at any time, based upon the approval of the educational institution or employer, for the purpose of verifying the participant's compliance with the conditions of his detention.

(4) The participant shall acknowledge and participate with the approved electronic monitoring device as designated by the department at any time for the purpose of verifying the participant's compliance with the conditions of his detention.

(5) The participant shall be responsible for and shall maintain the following:

- (a) A working telephone line in the participant's home;
- (b) A monitoring device in the participant's home, or on the participant's person, or both; and
- (c) A monitoring device in the participant's home and on the participant's person in the absence of a telephone.

(6) The participant shall obtain approval from the correctional field officer before the participant changes residence.

(7) The participant shall not commit another crime during the period of home detention ordered by the court or department.

(8) Notice shall be given to the participant that violation of the order of home detention shall subject the participant to prosecution for the crime of escape as a felony.

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(9) The participant shall abide by other conditions as set by the department.

SECTION 5. Section 47-5-1009, Mississippi Code of 1972, is reenacted as follows:

47-5-1009. (1) The department shall have absolute immunity from liability for any injury resulting from a determination by a judge or correctional officer that an offender shall be allowed to participate in the electronic home detention program.

(2) The Department of Audit shall annually audit the records of the department to ensure compliance with Sections 47-5-1001 through 47-5-1015.

SECTION 6. Section 47-5-1011, Mississippi Code of 1972, is reenacted as follows:

47-5-1011. (1) Before entering an order for commitment for electronic house arrest, the department shall inform the participant and other persons residing in the home of the nature and extent of the approved electronic monitoring devices by doing the following:

(a) Securing the written consent of the participant in the program to comply with the rules and regulations of the program.

(b) Advising adult persons residing in the home of the participant at the time an order or commitment for electronic house arrest is entered and asking such persons to acknowledge the nature and extent of approved electronic monitoring devices.

(c) Insuring that the approved electronic devices are minimally intrusive upon the privacy of other persons residing in the home while remaining in compliance with Sections 47-5-1001 through 47-5-1015.

(2) The participant shall be responsible for the cost of equipment and any damage to such equipment. Any intentional damage, any attempt to defeat monitoring, any committing of a

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criminal offense or any associating with felons or known criminals, shall constitute a violation of the program.

(3) Any person whose residence is utilized in the program shall agree to keep the home drug and alcohol free and to exclude known felons and criminals in order to provide a noncriminal environment.

SECTION 7. Section 47-5-1013, Mississippi Code of 1972, is reenacted as follows:

47-5-1013. Participants enrolled in an intensive supervision program shall be required to:

(a) Maintain employment if physically able, or full-time student status at an approved school or vocational trade, and make progress deemed satisfactory to the correctional field officer, or both, or be involved in supervised job searches.

(b) Pay restitution and program fees as directed by the department. Program fees shall not be less than Eighty-eight Dollars (\$88.00) per month. The sentencing judge may charge a program fee of less than Eighty-eight Dollars (\$88.00) per month in cases of extreme financial hardship, when such judge determines that the offender's participation in the program would provide a benefit to his community. Juvenile offenders shall not pay a program fee but shall pay a monthly fee as provided in Section 47-5-1007. Program fees shall be deposited in the special fund created in Section 47-5-1007.

(c) Establish a place of residence at a place approved by the correctional field officer, and not change his residence without the officer's approval. The correctional officer shall be allowed to inspect the place of residence for alcoholic beverages, controlled substances and drug paraphernalia.

(d) Remain at his place of residence at all times except to go to work, to attend school, to perform community service and as specifically allowed in each instance by the correctional field officer.

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(e) Allow administration of drug and alcohol tests as requested by the field officer.

(f) Perform not less than ten (10) hours of community service each month.

(g) Meet any other conditions imposed by the court to meet the needs of the offender and limit the risks to the community.

SECTION 8. Section 47-5-1014, Mississippi Code of 1972, is reenacted as follows:

47-5-1014. (1) Participants who have been in the intensive supervision program since July 1, 2004, whether placed into the program before or after July 1, 2004, shall pay a Fifty Dollar (\$50.00) monthly supervision fee to the Mississippi Department of Corrections for their supervision from July 1, 2004, or from the date the participant entered the program after July 1, 2004, until completion of the program, or April 6, 2005, or whichever occurs first. From and after April 6, 2005, all participants of the intensive supervision program shall pay the fee as established in Section 47-5-1013.

(2) The Department of Corrections shall use its best effort to collect the monthly supervision fees in arrearage under this section.

(3) A participant's failure to pay the monthly fees in arrearage shall not be deemed a violation of a condition of the program, and the participant shall not be removed from the program for failure to pay the monthly fees in arrearage.

(4) This section shall not apply to any fees incurred after April 6, 2005.

(5) Any arrearage remaining under this section at the end of the offender's participation in the program shall automatically be reduced to a civil judgment and upon notice by the Department of Corrections shall be recorded with the circuit court clerk in the county wherein the participant resides. The Department of

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Corrections and/or the district attorney shall use best efforts to collect the judgment.

SECTION 9. Section 47-5-1015, Mississippi Code of 1972, is reenacted and amended as follows:

47-5-1015. Sections 47-5-1001 through 47-5-1015 shall stand repealed after June 30, 2014.

SECTION 10. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

Senate Bill 2263

Description: Corrections; clarify prohibition against possessing unauthorized items in correctional facilities.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 01/30 (S) Referred To Corrections
- 2 03/01 (S) Title Suff Do Pass
- 3 03/07 (S) Passed Vote
- 4 03/08 (S) Transmitted To House
- 5 03/21 (H) Referred To Corrections
- 6 03/22 (H) Title Suff Do Pass
- 7 03/26 (H) Passed Vote
- 8 03/27 (H) Motion to Reconsider Entered (Buck (5th), Flaggs, Huddleston (30th))
- 9 03/29 (H) Motion to Reconsider Tabled
- 10 03/29 (H) Transmitted To Senate
- 11 03/30 (S) Enrolled Bill Signed
- 12 04/02 (H) Enrolled Bill Signed
- 13 04/05 Approved by Governor

Code Section: A 047-0005-0193

----- Additional Information -----

Senate Committee: Corrections

House Committee: Corrections

Principal Author: Tollison

Additional Authors: Jackson (11th)

2012 GENERAL LAWS OF MISSISSIPPI, SB 2263

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Tollison, Jackson (11th)

To: Corrections

SENATE BILL NO. 2263

AN ACT TO AMEND SECTION 47-5-193, MISSISSIPPI CODE OF 1972, TO CLARIFY THE PROHIBITION AGAINST POSSESSING UNAUTHORIZED ITEMS IN CORRECTIONAL FACILITIES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 47-5-193, Mississippi Code of 1972, is amended as follows:

47-5-193. It is unlawful for any officer or employee of the department, of any county sheriff's department, of any private correctional facility in this state in which offenders are confined, of any municipal or other correctional facility in this state, or for any other person or offender to possess, furnish, attempt to furnish, or assist in furnishing to any offender confined in this state any weapon, deadly weapon, unauthorized electronic device, contraband item, or cell phone or any of its components or accessories to include, but not limited to, Subscriber Information Module (SIM) cards or chargers * * *. It is unlawful for any person or offender to take, attempt to take, or assist in taking any weapon, deadly weapon, unauthorized electronic device, contraband item, cell phone or any of its components or accessories to include, but not limited to, Subscriber Information Module (SIM) cards or chargers * * * on property within the state belonging to the department, a county, a municipality, or other entity that is occupied or used by offenders, except as authorized by law.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

Senate Bill 2295

Description: Marine Resources; authorize the commission to open shrimping areas if natural or man-made disaster affects shrimp fishery.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 01/30 (S) Referred To Ports and Marine Resources
- 2 02/15 (S) Title Suff Do Pass Comm Sub
- 3 03/07 (S) Committee Substitute Adopted
- 4 03/07 (S) Passed /Vote/
- 5 03/08 (S) Transmitted To House
- 6 03/22 (H) Referred To Marine Resources
- 7 03/28 (H) Title Suff Do Pass
- 8 04/04 (H) Passed /Vote/
- 9 04/05 (H) Transmitted To Senate
- 10 04/09 (S) Enrolled Bill Signed
- 11 04/10 (H) Enrolled Bill Signed
- 12 04/13 Approved by Governor

Code Section: A 049-0015-0064.1, A 049-0015-0064.3

----- Additional Information -----

Senate Committee: Ports and Marine Resources

House Committee: Marine Resources

Principal Author: Wiggins

Additional Authors: Jackson (11th)

2012 GENERAL LAWS OF MISSISSIPPI, SB 2295

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Wiggins, Jackson (11th)

To: Ports and Marine
Resources

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2295

AN ACT TO AMEND SECTION 49-15-64.1, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSION ON MARINE RESOURCES TO OPEN SHRIMPING AREAS IF A NATURAL OR MAN-MADE DISASTER MAY ADVERSELY AFFECT THE SHRIMP FISHERY; TO AMEND SECTION 49-15-64.3, MISSISSIPPI CODE OF 1972, TO CONFORM THE COMMISSION ON MARINE RESOURCES PROCEDURE FOR ADOPTING LIVE BAIT REGULATIONS TO THE ADMINISTRATIVE PROCEDURES ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 49-15-64.1, Mississippi Code of 1972, is amended as follows:

49-15-64.1. (1) The shrimp season shall open on the first Wednesday of June. The shrimp season shall be closed from January 1 until it is opened the first Wednesday of June, except south of the Intercoastal Waterway. The shrimp season shall be closed south of the Intercoastal Waterway from May 1 until it is opened the first Wednesday of June, except as may be provided in subsection (2) of this section. For the purposes of this section only, that portion of the Intercoastal Waterway that extends from a point south of Long Beach to a point south of Point Clear is described as follows:

Begin at green buoy or beacon number 1 which is located approximately three (3) miles north of West Point on Cat Island, thence extending southwesterly to buoy or beacon number 4P, thence southwesterly to Pass Marianne Light, thence southwesterly to buoy or beacon number 15P at the northernmost point of Merrill Coquille, thence southwesterly to buoy or beacon number 17P, thence southwesterly to buoy or beacon number 22, thence westerly to Lighthouse Point and continuing westward

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following the meandering of the shoreline to the boundary line of the state.

(2) The commission, by majority vote, may open the season at an earlier or later date in designated areas only after sampling areas within its jurisdiction where shrimp may be caught for the purpose of determining the count of shrimp per pound. The commission may also, by majority vote, close certain designated areas where the shrimp count is found, by sampling, to be in excess of sixty-eight (68) per pound. If a natural or man-made disaster has the potential of adversely affecting the shrimp fishery, the commission, by majority vote, may open legal shrimping areas.

(3) The following waters are protective and staging areas for young shrimp, and are permanently closed to commercial and recreational shrimping activities:

All waters north of a line beginning at a point one-half mile due South of the shoreline at the Mississippi-Alabama state boundary; thence running westerly following the meanderings of the shoreline one-half mile therefrom to Light "5" in the Bayou Casotte Channel; thence running northerly to Light "7" in the Bayou Casotte Channel; thence running westerly following the meanderings of the shoreline one-half mile therefrom to the intersection with the Pascagoula Channel; thence running northwesterly to Beacon "50" in the Pascagoula Channel; thence running southwesterly to Beacon "49" in the Pascagoula Channel; thence running in the most direct line to the northeast point of Singing River Island; thence running westerly along the north shoreline to the northwest point of Singing River Island; thence running northwesterly to a point one-half mile due south of the mouth of Graveline Bayou; thence running westerly following the meanderings of the

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shoreline one-half mile therefrom to Beacon "18" in the Biloxi Bay Channel; thence running northwesterly to Beacon "22" in the Biloxi Bay Channel; thence running northwesterly to Beacon "26" in the Biloxi Bay Channel; thence running westerly to Beacon "34", exclusive of the Biloxi Channel itself; thence running westerly to Beacon "30" in the Biloxi Channel, exclusive of the Biloxi Channel itself; and thence running due South to a point on the north shore of Deer Island; thence running westerly following the north shore of Deer Island to the westernmost tip; thence running westerly in the most direct line to Biloxi Beacon "8"; thence running westerly following the meanderings of the shoreline at a distance of one-half mile therefrom to a point on the centerline of the CSX Railroad Bridge over St. Louis Bay; thence running westerly along the centerline of said bridge to a point one-half mile south of the western abutment; thence running southwesterly following the meanderings of the shoreline, at a distance of one-half mile therefrom, to a point one-half mile due East of the mouth of Bayou Caddy; thence running due West to the mouth of Bayou Caddy; thence running southwesterly following the meanderings of the shoreline to the southernmost point of the Mississippi shoreline on the east bank of the mouth of the Pearl River thence following the meanderings of the east bank of the Pearl River to a point where the east bank of the Pearl River intersects the centerline of the Highway 90 bridge; thence westerly along the centerline of the Highway 90 bridge to a point that intersects the Mississippi-Louisiana state boundary.

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(4) The redesignation of beacon numbers by the United States Coast Guard shall not alter the description of the boundary described in this section.

SECTION 2. Section 49-15-64.3, Mississippi Code of 1972, is amended as follows:

49-15-64.3. (1) It is unlawful for any person, firm or corporation to take, catch or have in their possession within territorial waters of the State of Mississippi shrimp of a size weighing in the raw state less than one (1) pound to each sixty-eight (68) shrimp, except as provided under Section 49-15-64.1, except when a valid permit or affidavit of another state identifies the catch as having been taken in non-Mississippi waters, or except in case of live bait shrimp.

(2) It is unlawful to take, catch or have in possession live bait shrimp of a size weighing in the raw state less than one (1) pound to each one hundred (100) shrimp. This provision may be changed by a two-thirds (2/3) vote of the commission. The commission may adopt rules, regulations, guidelines and other operation criteria in conjunction with licensing live bait dealers and live bait catcher boats as it deems appropriate to ensure that only bona fide operations will be licensed. * * *

(3) If a live bait dealer or live bait catcher boat is convicted of a violation of this chapter or a duly adopted ordinance of the commission, the commission may, in addition to punishment duly adjudicated, revoke the license of the vessel or dealer to whom it is issued for a period not exceeding two (2) weeks following conviction of the first offense, not exceeding six (6) months following conviction of the second offense, and up to one (1) year following conviction of the third and subsequent offenses, if the subsequent offenses are committed within three (3) years of the first offense. Upon the revocation of the license, the commission may require the posting of a cash performance bond not to exceed One Thousand Dollars (\$1,000.00)

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before the reissuance of that revoked license. The commission may require the forfeiture of that bond upon the subsequent conviction of any violation of this chapter or a duly adopted ordinance of the commission. If a person who posts bond under this section desires to no longer engage in the live bait business, that person shall certify that fact to the commission who shall return the bond. If that person desires to again engage in the live bait business, a cash performance bond may be required before the issuance of a license.

SECTION 3. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

Senate Bill 2324

Description: Dental insurance; delete repealer on prohibitions against certain provisions in provider contracts.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/03 (S) Referred To Insurance
- 2 02/22 (S) Title Suff Do Pass
- 3 03/07 (S) Passed *{Vote}*
- 4 03/08 (S) Transmitted To House
- 5 03/21 (H) Referred To Insurance
- 6 03/22 (H) Title Suff Do Pass
- 7 03/26 (H) Passed *{Vote}*
- 8 03/27 (H) Transmitted To Senate
- 9 03/30 (S) Enrolled Bill Signed
- 10 04/02 (H) Enrolled Bill Signed
- 11 04/05 Approved by Governor

Code Section: A 083-0051-0031

----- Additional Information -----

Senate Committee: Insurance

House Committee: Insurance

Principal Author: Carmichael

Additional Authors: Jackson (11th)

2012 GENERAL LAWS OF MISSISSIPPI, SB 2324

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Carmichael, Jackson (11th)

To: Insurance

SENATE BILL NO. 2324

AN ACT TO AMEND SECTION 83-51-31, MISSISSIPPI CODE OF 1972, TO REMOVE THE REPEALER ON THE SECTION WHICH PROVIDES PROHIBITIONS AGAINST CERTAIN PROVISIONS IN CONTRACTS BETWEEN HEALTH CARE ENTITIES AND DENTISTS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-51-31, Mississippi Code of 1972, is amended as follows:

83-51-31. * * * No contract between a health care entity that offers a dental plan or plans and a dentist for the provision of services to subscribers may require that a dentist provide services to his subscribers at a fee set by the health care entity unless the services are covered services under the applicable subscriber agreement. For the purposes of this section, "covered services" means services that are reimbursable under the applicable subscriber agreement, notwithstanding any deductibles, waiting periods or frequency limitations that may apply. For the purposes of this section, "dental plan" means any policy of insurance that is issued by a health care entity that provides for coverage of dental services not in connection with a medical plan.

* * *

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2336

Description: Airport authorities; may enforce a lien on aircraft for unpaid landing fees or other rates and charges.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 02/07 (S) Referred To Highways and Transportation;Judiciary, Division B
- 2 02/29 (S) DR - TSDP: HI To JB
- 3 03/06 (S) Title Suff Do Pass
- 4 03/08 (S) Passed *(Vote)*
- 5 03/08 (S) Immediate Release
- 6 03/08 (S) Transmitted To House
- 7 03/14 (H) Referred To Ports, Harbors and Airports;Judiciary A
- 8 03/22 (H) DR - TSDP: PO To JA
- 9 03/28 (H) DR - TSDP: JA To PO
- 10 03/28 (H) Title Suff Do Pass
- 11 04/04 (H) Passed *(Vote)*
- 12 04/05 (H) Transmitted To Senate
- 13 04/09 (S) Enrolled Bill Signed
- 14 04/10 (H) Enrolled Bill Signed
- 15 04/16 Approved by Governor

----- Additional Information -----

Senate Committee: Highways and Transportation, Judiciary, Division B

House Committee: Ports, Harbors and Airports, Judiciary A

Principal Author: Tindell

Additional Authors: Jackson (11th)

2012 GENERAL LAWS OF MISSISSIPPI, SB 2336

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Tindell, Jackson (11th)

To: Highways and
Transportation; Judiciary,
Division B

SENATE BILL NO. 2336

AN ACT TO CREATE A NEW SECTION WITHIN CHAPTER 3 OF TITLE 61, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN AIRPORT AUTHORITY SHALL HAVE A LIEN UPON ALL AIRCRAFT THAT LAND AT ITS AIRPORT FOR THE FULL AMOUNT OF ANY LANDING FEES OR OTHER RATES AND CHARGES; TO AUTHORIZE THE AUTHORITY TO ENFORCE THE LIEN PURSUANT TO CERTAIN PROCEDURES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following shall be codified as Section 61-3-24, Mississippi Code of 1972:

61-3-24. (1) An authority, at which a commercial airline lands an aircraft operating under its Federal Aviation Administration certificate, shall have a lien upon all aircraft that land at the authority's airport by the airline for the full amount of any landing fees, or other rates and charges previously promulgated by the authority in its rules and regulations, incurred by the airline at the airport by any aircraft operating under the airline's Federal Aviation Administration certificate.

(2) An authority may enforce any lien created herein against a nonresident debtor airline pursuant to the following procedure: a court of appropriate jurisdiction may issue a writ of sequestration, ex parte, against any aircraft operating under the Federal Aviation Administration certificate of the nonresident debtor airline and located at the airport operated by the authority. However, before issuing a writ of sequestration, the court shall find there is prima facie evidence that the nonresident debtor airline is past due on the landing fees or other rates and charges, that the authority has submitted prima facie evidence of exigent circumstances for the issuance of the

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writ, and that the authority has submitted a corporate surety bond in the amount of one hundred twenty-five percent (125%) of the past-due amount claimed. Upon issuing the writ of sequestration, the court shall grant the nonresident debtor airline an opportunity for an immediate evidentiary hearing to rebut the authority's claim and revoke the writ. The court shall allow the nonresident debtor airline to substitute in place of the sequestered aircraft a corporate surety bond with the court in the amount of one hundred twenty-five percent (125%) of the past-due amount claimed by the authority for the purpose of securing payment.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session
Senate Bill 2342

Description: Free port warehouse law; clarify that manufacturers are eligible for ad valorem tax exemption.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: January 1, 2012

History of Actions:

- 1 02/13 (S) Referred To Finance
- 2 03/01 (S) Title Suff Do Pass
- 3 03/12 (S) Passed (Vote)
- 4 03/13 (S) Transmitted To House
- 5 03/14 (H) Referred To Ways and Means
- 6 04/02 (H) Title Suff Do Pass
- 7 04/04 (H) Passed (Vote)
- 8 04/05 (H) Transmitted To Senate
- 9 04/09 (S) Enrolled Bill Signed
- 10 04/10 (H) Enrolled Bill Signed
- 11 04/16 Approved by Governor

Code Section: A 027-0031-0051, A 027-0031-0053

----- Additional Information -----

Senate Committee: Finance

House Committee: Ways and Means

Principal Author: Fillingane

2012 GENERAL LAWS OF MISSISSIPPI, SB 2342

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Fillingane

To: Finance

SENATE BILL NO. 2342

AN ACT TO AMEND SECTIONS 27-31-51 AND 27-31-53, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT MANUFACTURERS OF PERSONAL PROPERTY THAT MAINTAIN SEPARATE FACILITIES FOR THE TEMPORARY STORAGE AND HANDLING OF SUCH PERSONAL PROPERTY PENDING TRANSIT TO A FINAL DESTINATION OUTSIDE THE STATE OF MISSISSIPPI ARE ELIGIBLE FOR LICENSING AS A "FREE PORT WAREHOUSE" AND THAT PERSONAL PROPERTY THAT IS MANUFACTURED IN THE STATE OF MISSISSIPPI AND STORED IN SUCH FACILITIES PENDING TRANSIT TO A FINAL DESTINATION OUTSIDE THE STATE OF MISSISSIPPI IS ELIGIBLE FOR EXEMPTION FROM AD VALOREM TAXATION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-31-51, Mississippi Code of 1972, is amended as follows:

27-31-51. (1) As used in Sections 27-31-51 through 27-31-61:

(a) "Warehouse" or "storage facility" shall not apply to caves or cavities in the earth, whether natural or artificial;

(b) "Governing authorities" means the board of supervisors of the county wherein the warehouse or storage facility is located or the governing authorities of the municipality wherein the warehouse or storage facility is located, as the case may be;

(c) "Tax assessor" means the tax assessor of each taxing jurisdiction in which the warehouse or storage facility may be located.

(2) All warehouses, public or private, or other storage facilities in the State of Mississippi regularly engaged in the handling and storage of personal property in structures or in places adopted for such handling and storage which is consigned or transferred to such warehouse or storage facility for storage and

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handling shall be eligible for licensing under the provisions of Sections 27-31-51 through 27-31-61 as a "free port warehouse." A manufacturer of personal property that maintains separate facilities, structures, places or areas for the temporary storage and handling of such personal property pending transit to a final destination outside the State of Mississippi shall be eligible for licensing under Sections 27-31-51 through 27-31-61 as a "free port warehouse," and any license issued to such a manufacturer before the effective date of this act is hereby ratified, approved and confirmed.

(3) Such licenses shall be issued by the governing authorities to such warehouse or storage facility as will qualify under the definition of "free port warehouse" as herein defined, upon application by the warehouse or storage facility operator.

SECTION 2. Section 27-31-53, Mississippi Code of 1972, is amended as follows:

[Through June 30, 2013, this section shall read as follows:]

27-31-53. All or a portion of the assessed value of personal property in transit through this state which is (a) moving in interstate commerce through or over the territory of the State of Mississippi, (b) which was consigned or transferred to a licensed "free port warehouse," public or private, within the State of Mississippi for storage in transit to a final destination outside the State of Mississippi, whether specified when transportation begins or afterward, or (c) manufactured in the State of Mississippi and stored in separate facilities, structures, places or areas maintained by a manufacturer, licensed as a free port warehouse, for temporary storage and handling pending transit to a final destination outside the State of Mississippi, may, in the discretion of the board of supervisors of the county wherein the warehouse or storage facility is located, and in the discretion of the governing authorities of the municipality wherein the warehouse or storage facility is located, as the case may be, and

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for such period of time as the respective governing body may prescribe, be exempt from all ad valorem taxes imposed by the respective county or municipality and the property exempted therefrom shall not be deemed to have acquired a situs in the State of Mississippi for the purposes of such taxation. The governing authorities may exempt all or a portion of the assessed value of such property. Such property shall not be deprived of such exemption because while in a warehouse the property is bound, divided, broken in bulk, labeled, relabeled or repackaged. Any exemption from ad valorem taxes granted before the effective date of this act is hereby ratified, approved and confirmed.

[From and after July 1, 2013, this section shall read as follows:]

27-31-53. All personal property in transit through this state which is (a) moving in interstate commerce through or over the territory of the State of Mississippi, (b) which was consigned or transferred to a licensed "free port warehouse," public or private, within the State of Mississippi for storage in transit to a final destination outside the State of Mississippi, whether specified when transportation begins or afterward, or (c) manufactured in the State of Mississippi and stored in separate facilities, structures, places or areas maintained by a manufacturer, licensed as a free port warehouse, for temporary storage or handling pending transit to a final destination outside the State of Mississippi, may, in the discretion of the board of supervisors of the county wherein the warehouse or storage facility is located, and in the discretion of the governing authorities of the municipality wherein the warehouse or storage facility is located, as the case may be, and for such period of time as the respective governing body may prescribe, be exempt from all ad valorem taxes imposed by the respective county or municipality and the property exempted therefrom shall not be deemed to have acquired a situs in the State of Mississippi for

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the purposes of such taxation. Such property shall not be deprived of exemption because while in a warehouse the property is bound, divided, broken in bulk, labeled, relabeled or repackaged. Any exemption from ad valorem taxes granted before the effective date of this act is hereby ratified, approved and confirmed.

SECTION 3. This act shall take effect and be in force from and after January 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2399

Description: Liquefied Compressed Gas Board; require good character and competency before granting permit to distribute/sell.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 02/13 (S) Referred To Insurance
- 2 02/22 (S) Title Suff Do Pass
- 3 03/07 (S) Passed (Vote)
- 4 03/08 (S) Transmitted To House
- 5 03/21 (H) Referred To Insurance
- 6 03/22 (H) Title Suff Do Pass
- 7 03/26 (H) Passed (Vote)
- 8 03/27 (H) Transmitted To Senate
- 9 03/30 (S) Enrolled Bill Signed
- 10 04/02 (H) Enrolled Bill Signed
- 11 04/05 Approved by Governor

Code Section: A 075-0057-0049, A 075-0057-0105

---- Additional Information ----

Senate Committee: Insurance

House Committee: Insurance

Principal Author: Carmichael

Additional Authors: Jackson (11th)

2012 GENERAL LAWS OF MISSISSIPPI, SB 2399

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Carmichael, Jackson (11th)

To: Insurance

SENATE BILL NO. 2399

AN ACT TO AMEND SECTION 75-57-49, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT, BEFORE ANY PERSON IS GRANTED A PERMIT TO ENGAGE IN THE BUSINESS OF DISTRIBUTING OR SELLING LIQUEFIED COMPRESSED GAS, HE SHALL SATISFY THE STATE LIQUEFIED COMPRESSED GAS BOARD THAT HE IS OF GOOD CHARACTER AND COMPETENT TO TRANSACT BUSINESS SO AS TO SAFEGUARD THE INTEREST OF THE PUBLIC; TO AMEND SECTION 75-57-105, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE LIQUEFIED COMPRESSED GAS BOARD SHALL PROMULGATE AND ENFORCE REGULATIONS NECESSARY FOR THE ADMINISTRATION OF THE CHAPTER; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 75-57-49, Mississippi Code of 1972, is amended as follows:

75-57-49. (1) Before any person shall be granted a permit to, or shall engage in or continue in the business of the distributing, either wholesale or retail, installing, altering, extending, changing or repairing of any liquefied compressed gas system, appliance or container, or in the business of distributing and selling liquefied compressed gas, either at wholesale or retail, whether from trucks or other vessels, in cylinders or in any other manner, such person shall satisfy the State Liquefied Compressed Gas Board that he or she is of good character, is competent to transact business so as to safeguard the interest of the public, and is financially responsible; and this provision as to financial responsibility shall be met by such person by filing with the State Liquefied Compressed Gas Board evidence that he or she has in force such of the hereinafter listed insurance policies on standard contract forms and written by an insurance company, or companies, qualified to do business in the State of Mississippi, as the State Liquefied Compressed Gas Board shall require, based

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upon those activities listed above in which such person is engaged, to wit:

ANY PERSON THAT ENGAGES IN FILLING CYLINDERS AND MOTOR FUEL TANKS WITH LIQUEFIED COMPRESSED GAS ON THEIR PREMISES OR ANY PERSON WHO IS IN THE BUSINESS OF INSTALLING LC GAS CARBURETION OR APPLIANCES:

	Limits of Liability	
	Each	
	Occasion	Aggregate
Manufacturers and Contractors		
Public Liability	\$100,000	\$300,000
Products Liability	\$100,000	\$300,000
Workers' Compensation and Employers' Liability		
Insurance	State Statute	

ANY PERSON THAT ENGAGES IN ANY PHASE OF THE LIQUEFIED COMPRESSED GAS BUSINESS OTHER THAN CYLINDER-FILLING LOCATIONS:

	Limits of Liability		
	Bodily Injury		Property
	Each Person	Each Accident	Damage Each Accident
Automobile Public Liability	\$500,000	\$1,000,000	\$1,000,000
	Each		
	Occasion	Aggregate	
Manufacturers and Contractors			
Public Liability	\$1,000,000	\$1,000,000	
Products Liability	\$1,000,000	\$1,000,000	
Workers' Compensation and Employers' Liability			
Insurance	State Statute		

(2) The State Liquefied Compressed Gas Board shall not require insurance coverage as specified above unless the hazard of liquefied compressed gases is involved.

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(3) No policy issued under the provisions of this chapter may be cancelled before thirty (30) days from the date of receipt by the Commissioner of Insurance of written notice of intention to cancel the policy.

(4) It is expressly provided, however, that in lieu of filing with the State Liquefied Compressed Gas Board evidence that such insurance, as outlined above, is in force, any such person may file with the State Liquefied Compressed Gas Board a good and sufficient surety bond executed by a surety company licensed to do business in this state in the amount of One Million Dollars (\$1,000,000.00), which such bond shall be payable to the State of Mississippi and shall be conditioned to guarantee the payment of all damages which proximately result from any act of negligence on the part of such person, or their agents or employees, while engaged in any of the activities herein specified. In lieu of the surety bond, any such person may execute and file a good and sufficient personal bond in the amount and conditioned as specified above, which such personal bond shall be secured by bonds or other obligations of the State of Mississippi or the United States government, of equal value.

(5) Upon compliance with the provisions of this section, where such compliance is required, and upon compliance with all other provisions of this chapter, the State Liquefied Compressed Gas Board shall issue to such dealer a permit to engage in such business, but not before. All such permits shall be valid until voluntarily surrendered, or until suspended, revoked or cancelled by the State Liquefied Compressed Gas Board, the Commissioner of Insurance or the chancery or circuit court. All permits issued under the provisions of Chapter 170, Laws of 1940, as amended, or Chapter 265, Laws of 1946, shall remain in full force and effect until the expiration date thereof at which time they must be renewed under the terms and conditions of this chapter.

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SECTION 2. Section 75-57-105, Mississippi Code of 1972, is amended as follows:

75-57-105. (1) The board shall promulgate and enforce regulations necessary for the administration of this chapter, and also setting forth the minimum general safety standards for the design, construction, location, installation and operation of equipment for storing, handling, transporting-by tank truck or tank trailer and utilizing liquefied compressed gas for fuel purposes and for the odorization of liquefied compressed gas.

(2) The board's regulations shall be in substantial conformity with the published Standards of the National Fire Protection Association for the Storage and Handling of Liquefied Petroleum Gases (NFPA 58) and with the National Fuel Gas Code (NFPA 54) as recommended by the National Fire Protection Association, adopted in accordance with the Mississippi Administrative Procedures Law. The board shall consider the adoption of revised versions of these standards as they are adopted by the National Fire Protection Association; the board may consider the adoption of other standards for matters not addressed by the above standards or amend the above standards if deemed to be in the best interest of the State of Mississippi and with the approval of the Commissioner of Insurance.

(3) The board is authorized to hold hearings, call witnesses, administer oaths, take testimony and obtain evidence in the conduct of its business.

SECTION 3. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

Senate Bill 2428

Description: Memorial highway; designate a certain segment of U.S. Highway 84 in Covington County as "Coach Ben B. James Sr. Memorial Highway."

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/16 (S) Referred To Highways and Transportation
- 2 03/06 (S) Title Suff Do Pass
- 3 03/08 (S) Passed *[Vote]*
- 4 03/08 (S) Immediate Release
- 5 03/08 (S) Transmitted To House
- 6 03/13 (H) Referred To Transportation
- 7 03/21 (H) Title Suff Do Pass
- 8 03/21 (H) Passed *[Vote]*
- 9 03/21 (H) Motion to Reconsider Entered (Dixon, Johnson, Massengill)
- 10 03/22 (H) Motion to Reconsider Tabled
- 11 03/22 (H) Transmitted To Senate
- 12 03/26 (S) Enrolled Bill Signed
- 13 03/27 (H) Enrolled Bill Signed
- 14 03/30 Approved by Governor

----- Additional Information -----

Senate Committee: Highways and Transportation

House Committee: Transportation

Principal Author: Fillingane

Additional Authors: Chassaniol

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Fillingane, Chassaniol

To: Highways and
Transportation

SENATE BILL NO. 2428

AN ACT TO DESIGNATE A CERTAIN SEGMENT OF U.S. HIGHWAY 84 IN COVINGTON COUNTY AS "COACH BEN B. JAMES SR. MEMORIAL HIGHWAY"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) That segment of U.S. Highway 84 in Covington County beginning at the eastern corporate limits of the City of Collins and extending easterly to the intersection of Mississippi Highway 588 and Salem School Road is designated and shall be known as the "Coach Ben B. James Sr. Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2447

Description: Memorial highway; designate a certain portion of MS Highway 245 in Chickasaw County as the Carl J. "Jack" Gordon, Jr. Memorial Highway.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/16 (S) Referred To Highways and Transportation
- 2 03/06 (S) Title Suff Do Pass
- 3 03/08 (S) Passed (Vote)
- 4 03/08 (S) Immediate Release
- 5 03/08 (S) Transmitted To House
- 6 03/13 (H) Referred To Transportation
- 7 03/21 (H) Title Suff Do Pass
- 8 03/21 (H) Passed (Vote)
- 9 03/22 (H) Transmitted To Senate
- 10 03/26 (S) Enrolled Bill Signed
- 11 03/27 (H) Enrolled Bill Signed
- 12 04/02 Approved by Governor

---- Additional Information ----

Senate Committee: Highways and Transportation

House Committee: Transportation

Principal Author: Jolly

Additional Authors: Blount, Browning, Burton, Butler (38th), Carmichael, Clarke, Dawkins, Fillingane, Flowers, Frazier, Gandy, Jackson (15th), Jones, Jordan, Kirby, Lee, Montgomery, Simmons (12th), Ward, Wilemon, Chassaniol, Jackson (11th)

2012 GENERAL LAWS OF MISSISSIPPI, SB 2447

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Jolly, Blount, Browning,
Burton, Butler (38th), Carmichael, Clarke,
Dawkins, Fillingane, Flowers, Frazier, Gandy,
Jackson (15th), Jones, Jordan, Kirby, Lee,
Montgomery, Simmons (12th), Ward, Wilemon,
Chassaniol, Jackson (11th)

To: Highways and
Transportation

SENATE BILL NO. 2447

AN ACT TO DESIGNATE A CERTAIN PORTION OF MISSISSIPPI HIGHWAY 245 IN CHICKASAW COUNTY AS THE CARL J. "JACK" GORDON, JR. MEMORIAL HIGHWAY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) That portion of Mississippi Highway 245 in Chickasaw County beginning at the Lee and Chickasaw county line and proceeding southerly to the northern corporate limits of the City of Okolona, is designated and shall be known as the Carl J. "Jack" Gordon, Jr. Memorial Highway.

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that portion of Mississippi Highway 245.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2486

Description: Corrections; revise duty of the Mississippi Department of Corrections to maintain certain records for offenders.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/17 (S) Referred To Corrections
- 2 03/01 (S) Title Suff Do Pass Comm Sub
- 3 03/07 (S) Committee Substitute Adopted
- 4 03/07 (S) Passed (Vote)
- 5 03/08 (S) Transmitted To House
- 6 03/21 (H) Referred To Corrections
- 7 03/22 (H) Title Suff Do Pass
- 8 03/26 (H) Passed (Vote)
- 9 03/26 (H) Motion to Reconsider Entered (Brown (66th), Flaggs, Huddleston
(30th))
- 10 03/27 (H) Motion to Reconsider Tabled
- 11 03/27 (H) Transmitted To Senate
- 12 03/27 (S) Enrolled Bill Signed
- 13 03/28 (H) Enrolled Bill Signed
- 14 03/30 Approved by Governor

Code Section: A 047-0005-0010

----- Additional Information -----

Senate Committee: Corrections

House Committee: Corrections

Principal Author: Wiggins

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Wiggins

To: Corrections

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2486

AN ACT TO AMEND SECTION 47-5-10, MISSISSIPPI CODE OF 1972, TO REVISE THE DUTY OF THE DEPARTMENT OF CORRECTIONS TO MAINTAIN CERTAIN RECORDS FOR OFFENDERS; TO REQUIRE THE DEPARTMENT TO MAINTAIN A SINGLE DOCUMENT WITH A SUMMARY OF AN OFFENDER'S RECORDS WITH THE DEPARTMENT; TO REQUIRE THE DEPARTMENT TO CONFORM SAID DOCUMENT TO RULES 803(6) AND 803(8) OF THE MISSISSIPPI RULES OF EVIDENCE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 47-5-10, Mississippi Code of 1972, is amended as follows:

47-5-10. The department shall have the following powers and duties:

- (a) To accept adult offenders committed to it by the courts of this state for incarceration, care, custody, treatment and rehabilitation;
- (b) To provide for the care, custody, study, training, supervision and treatment of adult offenders committed to the department;
- (c) To maintain, administer and exercise executive and administrative supervision over all state correctional institutions and facilities used for the custody, training, care, treatment and after-care supervision of adult offenders committed to the department; provided, however, that such supervision shall not extend to any institution or facility for which executive and administrative supervision has been provided by law through another agency;
- (d) To plan, develop and coordinate a statewide, comprehensive correctional program designed to train and

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rehabilitate offenders in order to prevent, control and retard recidivism;

(e) To maintain records of persons committed to it, and to establish programs of research, statistics and planning:

(i) An offender's records shall include a single cover sheet that contains the following information about the offender: name, including any aliases; department inmate number; social security number; photograph; court of conviction; cause number; date of conviction; date of sentence; total number of days in the department's custody or number of days creditable toward time served on each charge; date of actual custody; and date of any revocation of a suspended sentence;

(ii) The department shall maintain an offender's cover sheet in the course of its regularly conducted business activities and shall include an offender's cover sheet in each request from a court, prosecutor or law enforcement agency for a summary of an offender's records with the department, also known as a "pen-pack." The cover sheet shall conform to Rules 803(6) and 803(8) of the Mississippi Rules of Evidence for admission as an exception to the hearsay rule and may be admissible when properly authenticated according to evidentiary rules and when offered for the purpose of enhanced sentencing under Section 41-29-147, 99-19-81 or 99-19-83 or other similar purposes; and

(iii) This subsection is not intended to conflict with an offender's right of confrontation in criminal proceedings under the state or federal constitution;

(f) To investigate the grievances of any person committed to the department, and to inquire into any alleged misconduct by employees; and for this purpose it may issue subpoenas and compel the attendance of witnesses and the production of writings and papers, and may examine under oath any witnesses who may appear before it;

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(g) To administer programs of training and development of personnel of the department;

(h) To develop and implement diversified programs and facilities to promote, enhance, provide and assure the opportunities for the successful custody, training and treatment of adult offenders properly committed to the department or confined in any facility under its control. Such programs and facilities may include but not be limited to institutions, group homes, halfway houses, diagnostic centers, work and educational release centers, restitution centers, counseling and supervision of probation, parole, suspension and compact cases, presentence investigating and other state and local community-based programs and facilities;

(i) To receive, hold and use, as a corporate body, any real, personal and mixed property donated to the department, and any other corporate authority as shall be necessary for the operation of any facility at present or hereafter;

(j) To provide those personnel, facilities, programs and services the department shall find necessary in the operation of a modern correctional system for the custody, care, study and treatment of adult offenders placed under its jurisdiction by the courts and other agencies in accordance with law;

(k) To develop the capacity and administrative network necessary to deliver advisory consultation and technical assistance to units of local government for the purpose of assisting them in developing model local correctional programs for adult offenders;

(l) To cooperate with other departments and agencies and with local communities for the development of standards and programs for better correctional services in this state;

(m) To administer all monies and properties of the department;

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(n) To report annually to the Legislature and the Governor on the committed persons, institutions and programs of the department;

(o) To cooperate with the courts and with public and private agencies and officials to assist in attaining the purposes of this chapter and Chapter 7 of this title. The department may enter into agreements and contracts with other departments of federal, state or local government and with private agencies concerning the discharge of its responsibilities or theirs. The department shall have the authority to accept and expend or use gifts, grants and subsidies from public and private sources;

(p) To make all rules and regulations and exercise all powers and duties vested by law in the department;

(q) The department may require a search of all persons entering the grounds and facilities at the correctional system;

(r) To discharge any other power or duty imposed or established by law.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2561

Description: Fiscal notes; shall be published on the Legislature website if prepared for certain bills.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (S) Referred To Rules
- 2 03/06 (S) Title Suff Do Pass
- 3 03/15 (S) Passed *{Vote}*
- 4 03/16 (S) Transmitted To House
- 5 03/22 (H) Referred To Rules
- 6 03/22 (H) Title Suff Do Pass
- 7 03/27 (H) Passed *{Vote}*
- 8 03/28 (H) Transmitted To Senate
- 9 03/30 (S) Enrolled Bill Signed
- 10 04/02 (H) Enrolled Bill Signed
- 11 04/05 Approved by Governor

----- Additional Information -----

Senate Committee: Rules

House Committee: Rules

Principal Author: Collins

Additional Authors: Watson

2012 GENERAL LAWS OF MISSISSIPPI, SB 2561

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Collins, Watson

To: Rules

SENATE BILL NO. 2561

AN ACT TO REQUIRE THE PUBLICATION ON THE MISSISSIPPI LEGISLATURE WEBSITE OF THE FISCAL NOTE, IF PREPARED, FOR CERTAIN BILLS OR CONCURRENT RESOLUTIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. For any bill or concurrent resolution, the purpose or effect of which is to expend state funds or enable the spending of state funds, or to increase or decrease the revenue of the state, either directly or indirectly, that passes out of a committee for which a fiscal note was drafted, the fiscal note shall be published in electronic form on the Mississippi Legislature website on the web page that provides the bill text, description, background information, history of actions, amendments, and additional information for the bill within twenty-four (24) hours of passing out of committee. If a fiscal note was not drafted for any such bill or concurrent resolution, the statement "No fiscal note conducted" shall be included on the web page.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2577

Description: Property and Casualty Actuarial Opinion Act; delete repealer on.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (S) Referred To Insurance
- 2 02/22 (S) Title Suff Do Pass
- 3 03/07 (S) Passed *(Vote)*
- 4 03/08 (S) Transmitted To House
- 5 03/14 (H) Referred To Insurance
- 6 03/20 (H) Title Suff Do Pass
- 7 03/21 (H) Passed *(Vote)*
- 8 03/22 (H) Transmitted To Senate
- 9 03/26 (S) Enrolled Bill Signed
- 10 03/27 (H) Enrolled Bill Signed
- 11 03/30 Approved by Governor

Code Section: R 083-0005-0501, R 083-0005-0503, R 083-0005-0505, RP 083-0005-0507

---- Additional Information ----

Senate Committee: Insurance

House Committee: Insurance

Principal Author: Carmichael

Additional Authors: Jackson (11th)

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Carmichael, Jackson (11th)

To: Insurance

SENATE BILL NO. 2577

AN ACT TO REENACT SECTIONS 83-5-501 THROUGH 83-5-505, MISSISSIPPI CODE OF 1972, WHICH CREATES THE PROPERTY AND CASUALTY ACTUARIAL OPINION ACT; TO REPEAL SECTION 83-5-507, MISSISSIPPI CODE OF 1972, WHICH PROVIDED FOR THE REPEAL OF THE REENACTED SECTIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-5-501, Mississippi Code of 1972, is reenacted as follows:

83-5-501. Sections 83-5-501 through 83-5-505 shall be known as the "Property and Casualty Actuarial Opinion Act."

SECTION 2. Section 83-5-503, Mississippi Code of 1972, is reenacted as follows:

83-5-503. (1) **Statement of Actuarial Opinion.** Every property and casualty insurance company doing business in this state, unless otherwise exempted by the domiciliary commissioner, shall annually submit the opinion of an appointed actuary entitled "Statement of Actuarial Opinion." This opinion shall be filed in accordance with the appropriate National Association of Insurance Commissioners (NAIC) Property and Casualty Annual Statement Instructions.

(2) **Actuarial Opinion Summary.** (a) Every property and casualty insurance company domiciled in this state that is required to submit a Statement of Actuarial Opinion shall annually submit an Actuarial Opinion Summary, written by the company's appointed actuary. This Actuarial Opinion Summary shall be filed in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions and shall be considered as a

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document supporting the actuarial opinion required in subsection (1).

(b) A company licensed but not domiciled in this state shall provide the Actuarial Opinion Summary upon request.

(3) **Actuarial report and workpapers.** (a) An actuarial report and underlying workpapers as required by the appropriate NAIC Property and Casualty Annual Statement Instructions shall be prepared to support each actuarial opinion.

(b) If the insurance company fails to provide a supporting actuarial report and/or workpapers at the request of the commissioner or the commissioner determines that the supporting actuarial report or workpapers provided by the insurance company is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting actuarial report or workpapers.

(4) The appointed actuary shall not be liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision or conduct with respect to the actuary's opinion, except in cases of fraud or willful misconduct on the part of the appointed actuary.

SECTION 3. Section 83-5-505, Mississippi Code of 1972, is reenacted as follows:

83-5-505. (1) The Statement of Actuarial Opinion shall be provided with the annual statement in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions and shall be treated as a public document.

(2) (a) Documents, materials or other information in the possession or control of the Department of Insurance that are considered an actuarial report, workpapers or Actuarial Opinion Summary provided in support of the opinion, and any other material provided by the company to the commissioner in connection with the actuarial report, workpapers or Actuarial Opinion Summary, shall

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be confidential by law and privileged, shall not be subject to the Mississippi Public Records Act, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

(b) This section shall not be construed to limit the commissioner's authority to release the documents to the Actuarial Board for Counseling and Discipline (ABCD) so long as the material is required for the purpose of professional disciplinary proceedings and that the ABCD establishes procedures satisfactory to the commissioner for preserving the confidentiality of the documents, nor shall this section be construed to limit the commissioner's authority to use the documents, materials or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(3) Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subsection (2).

(4) In order to assist in the performance of the commissioner's duties, the commissioner:

(a) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subsection (2) with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information and has the legal authority to maintain confidentiality;

(b) May receive documents, materials or information, including otherwise confidential and privileged documents,

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materials or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(c) May enter into agreements governing sharing and use of information consistent with subsections (2), (3) and (4).

(5) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (4).

SECTION 4. Section 83-5-507, Mississippi Code of 1972, which repeals the Property and Casualty Actuarial Opinion Act (Sections 83-5-501 through 83-5-505), is repealed.

SECTION 5. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2578

Description: Comprehensive Hurricane Damage Mitigation Program; extend repealer on.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (S) Referred To Insurance
- 2 02/22 (S) Title Suff Do Pass
- 3 03/08 (S) Passed *(Vote)*
- 4 03/08 (S) Immediate Release
- 5 03/08 (S) Transmitted To House
- 6 03/13 (H) Referred To Insurance
- 7 03/20 (H) Title Suff Do Pass
- 8 03/21 (H) Passed *(Vote)*
- 9 03/22 (H) Transmitted To Senate
- 10 03/26 (S) Enrolled Bill Signed
- 11 03/27 (H) Enrolled Bill Signed
- 12 03/30 Approved by Governor

Code Section: A 083-0001-0191

----- Additional Information -----

Senate Committee: Insurance

House Committee: Insurance

Principal Author: Carmichael

Additional Authors: Jackson (11th)

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Carmichael, Jackson (11th)

To: Insurance

SENATE BILL NO. 2578

AN ACT TO AMEND SECTION 83-1-191, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE REPEALER ON THE COMPREHENSIVE HURRICANE DAMAGE MITIGATION PROGRAM; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-1-191, Mississippi Code of 1972, is amended as follows:

83-1-191. (1) There is established within the Department of Insurance a Comprehensive Hurricane Damage Mitigation Program. This section does not create an entitlement for property owners or obligate the state in any way to fund the inspection or retrofitting of residential property or commercial property in this state. Implementation of this program is subject to the availability of funds that may be appropriated by the Legislature for this purpose. The program may develop and implement a comprehensive and coordinated approach for hurricane damage mitigation that may include the following:

(a) **Cost-benefit study on wind hazard mitigation construction measures.** The performance of a cost-benefit study to establish the most appropriate wind hazard mitigation construction measures for both new construction and the retrofitting of existing construction for both residential and commercial facilities within the wind-borne debris regions of Mississippi as defined by the International Building Code. The recommended wind construction techniques shall be based on both the newly adopted Mississippi building code sections for wind load design and the wind-borne debris region. The list of construction measures to be considered for evaluation in the cost-benefit study shall be based

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on scientifically established and sound, but common, construction techniques that go above and beyond the basic recommendations in the adopted building codes. This allows residents to utilize multiple options that will further reduce risk and loss and still be awarded for their endeavors with appropriate wind insurance discounts. It is recommended that existing accepted scientific studies that validate the wind hazard construction techniques benefits and effects be taken into consideration when establishing the list of construction techniques that homeowners and business owners can employ. This will ensure that only established construction measures that have been studied and modeled as successful mitigation measures will be considered to reduce the chance of including risky or unsound data that will cost both the property owner and state unnecessary losses. The cost-benefit study shall be based on actual construction cost data collected for several types of residential construction and commercial construction materials, building techniques and designs that are common to the region. The study shall provide as much information as possible that will enhance the data and options provided to the public, so that homeowners and business owners can make informed and educated decisions as to their level of involvement. Based on the construction data, modeling shall be performed on a variety of residential and commercial designs, so that a broad enough representative spectrum of data can be obtained. The data from the study will be utilized in a report to establish tables reflecting actuarially appropriate levels of wind insurance discounts (in percentages) for each mitigation construction technique/combination of techniques. This report will be utilized as a guide for the Department of Insurance and the insurance industry for developing actuarially appropriate discounts, credits or other rate differentials, or appropriate reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a

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windstorm have been installed or implemented. Additional data that will enhance the program, such as studies to reflect property value increases for retrofitting or building to the established wind hazard mitigation construction techniques and cost comparison data collected to establish the value of this program against the investment required to include the mitigation measures, also may be provided.

(b) Wind certification and hurricane mitigation inspections.

(i) Home-retrofit inspections of site-built, residential property, including single-family, two-family, three-family or four-family residential units, and a set of representative commercial facilities may be offered to determine what mitigation measures are needed and what improvements to existing residential properties are needed to reduce the property's vulnerability to hurricane damage. A state program may be established within the Department of Insurance to provide homeowners and business owners wind certification and hurricane mitigation inspections. The inspections provided to homeowners and business owners, at a minimum, must include:

1. A home inspection and report that summarizes the results and identifies corrective actions a homeowner may take to mitigate hurricane damage.
2. A range of cost estimates regarding the mitigation features.
3. Insurer-specific information regarding premium discounts correlated to recommended mitigation features identified by the inspection.
4. A hurricane resistance rating scale specifying the home's current as well as projected wind resistance capabilities.

This data may be provided by trained and certified inspectors in standardized reporting formats and forms to ensure all data

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collected during inspections is equivalent in style and content that allows construction data, estimates and discount information to be easily assimilated into a database. Data pertaining to the number of inspections and inspection reports may be stored in a state database for evaluation of the program's success and review of state goals in reducing wind hazard loss in the state.

(ii) To qualify for selection by the department as a provider of wind certification and hurricane mitigation inspections services, the entity shall, at a minimum, and on a form and in the manner prescribed by the commissioner:

1. Use wind certification and hurricane mitigation inspectors who:

a. Have prior experience in residential and/or commercial construction or inspection and have received specialized training in hurricane mitigation procedures through the state certified program. In order to qualify for training in the inspection process, the individual should be either a licensed building code official, a licensed contractor or inspector in the State of Mississippi, or a civil engineer.

b. Have undergone drug testing and background checks.

c. Have been certified through a state mandated training program, in a manner satisfactory to the department, to conduct the inspections.

d. Have not been convicted of a felony crime of violence or of a sexual offense; have not received a first-time offender pardon or nonadjudication order for a felony crime of violence or of a sexual offense; or have not entered a plea of guilty or nolo contendere to a felony charge of violence or of a sexual offense.

e. Submit a statement authorizing the Commissioner of Insurance to order fingerprint analysis or any other analysis or documents deemed necessary by the commissioner

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for the purpose of verifying the criminal history of the individual. The commissioner shall have the authority to conduct criminal history verification on a local, state or national level, and shall have the authority to require the individual to pay for the costs of such criminal history verification.

2. Provide a quality assurance program including a reinspection component.

3. Have data collection equipment and computer systems, so that data can be submitted electronically to the state's database of inspection reports, insurance certificates, and other industry information related to this program. It is mandatory that all inspectors provide original copies to the property owner of any inspection reports, estimates, etc., pertaining to the inspection and keep a copy of all inspection materials on hand for state audits.

(c) **Financial grants to retrofit properties.** Financial grants may be used to encourage single-family, site-built, owner-occupied, residential property owners or commercial property owners to retrofit their properties to make them less vulnerable to hurricane damage.

(d) **Education and consumer awareness.** Multimedia public education, awareness and advertising efforts designed to specifically address mitigation techniques may be employed, as well as a component to support ongoing consumer resources and referral services. In addition, all insurance companies shall provide notification to their clients regarding the availability of this program, participation details, and directions to the state website promoting the program, along with appropriate contact phone numbers to the state agency administrating the program. The notification to the clients must be sent by the insurance company within thirty (30) days after filing their insurance discount schedules with the Department of Insurance.

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(e) **Advisory council.** There is created an advisory council to provide advice and assistance to the program administrator with regard to his or her administration of the program. The advisory council shall consist of:

(i) An agent, selected by the Independent Insurance Agents of Mississippi.

(ii) Two (2) representatives of residential property insurers, selected by the Department of Insurance.

(iii) One (1) representative of homebuilders, selected by the Home Builders Association of Mississippi.

(iv) The Chairman of the House Insurance Committee, or his designee.

(v) The Chairman of the Senate Insurance Committee, or his designee.

(vi) The Executive Director of the Mississippi Windstorm Underwriting Association, or his designee.

(vii) The Director of the Mississippi Emergency Management Agency, or his designee.

Members appointed under subparagraphs (i) and (ii) shall serve at the pleasure of the Department of Insurance. All other members shall serve as voting ex officio members. Members of the advisory council who are not legislators, state officials or state employees shall be compensated at the per diem rate authorized by Section 25-3-69, and shall be reimbursed in accordance with Section 25-3-41, for mileage and actual expenses incurred in the performance of their duties. Legislative members of the advisory council shall be paid from the contingent expense funds of their respective houses in the same manner as provided for committee meetings when the Legislature is not in session; however, no per diem or expense for attending meetings of the advisory council may be paid while the Legislature is in session. No advisory council member may incur per diem, travel or other expenses unless previously authorized by vote, at a meeting of the council, which

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action shall be recorded in the official minutes of the meeting. Nonlegislative members shall be paid from any funds made available to the advisory council for that purpose.

(f) **Rules and regulations.** The Department of Insurance may adopt rules and regulations governing the Comprehensive Hurricane Damage Mitigation Program. The department also may adopt rules and regulations establishing priorities for grants provided under this section based on objective criteria that gives priority to reducing the state's probable maximum loss from hurricanes. However, pursuant to this overall goal, the department may further establish priorities based on the insured value of the dwelling, whether or not the dwelling is insured by the Mississippi Windstorm Underwriting Association and whether or not the area under consideration has sufficient resources and the ability to perform the retrofitting required.

(2) Nothing in this section shall prohibit the Department of Insurance from entering into an agreement with any other appropriate state agency to assist with or perform any of the duties set forth hereunder.

(3) This section shall stand repealed from and after July 1, 2015.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

**Mississippi Legislature
2012 Regular Session
Senate Bill 2579**

Description: Preneed burial policies; shall be portable.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (S) Referred To Insurance
- 2 02/29 (S) Title Suff Do Pass
- 3 03/07 (S) Passed
- 4 03/08 (S) Transmitted To House
- 5 03/14 (H) Referred To Insurance
- 6 03/20 (H) Title Suff Do Pass
- 7 03/21 (H) Passed
- 8 03/21 (H) Motion to Reconsider Entered (Banks, Chism, Buck (5th))
- 9 03/23 (H) Motion to Reconsider Tabled
- 10 03/23 (H) Transmitted To Senate
- 11 03/26 (S) Enrolled Bill Signed
- 12 03/27 (H) Enrolled Bill Signed
- 13 03/30 Approved by Governor

Code Section: A 075-0063-0053, A 075-0063-0059, A 075-0063-0063, A 075-0063-0068

----- Additional Information -----

Senate Committee: Insurance

House Committee: Insurance

Principal Author: Longwitz

Additional Authors: Jackson (11th)

2012 GENERAL LAWS OF MISSISSIPPI, SB 2579

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Longwitz, Jackson (11th)

To: Insurance

SENATE BILL NO. 2579

AN ACT TO AMEND SECTION 75-63-53, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM "SUBSTITUTE PROVIDER" AS USED IN THE PRENEED CEMETERY AND FUNERAL REGISTRATION ACT; TO AMEND SECTION 75-63-59, MISSISSIPPI CODE OF 1972, TO PROHIBIT TRUST FUNDS FROM BEING LOANED TO CERTAIN PERSONS OR INVESTED IN CERTAIN BUSINESSES; TO AMEND SECTION 75-63-63, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PRENEED CONTRACTS ENTERED INTO THIS STATE ARE PORTABLE; TO AMEND SECTION 75-63-68, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 75-63-53, Mississippi Code of 1972, is amended as follows:

75-63-53. As used in this article, unless the context requires otherwise:

(a) "Buyer" means the person who purchases the preneed contract.

(b) "Cash advance item" means any item of service or merchandise described to a purchaser as a "cash advance," "accommodation," "cash disbursement" or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items may include, but are not limited to: cemetery or crematory services; pallbearers; public transportation; clergy honoraria; flowers; musicians or singers; nurses; obituary notices; gratuities and death certificates.

(c) "Cemetery" means an organization as defined in Section 41-43-33.

(d) "Contract insured" or "contract owner" means the person upon whose death will initiate the performance of a preneed contract.

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(e) "Contract provider" means the funeral home, cemetery or other providers of merchandise and/or service in a preneed contract that will be responsible for performing a preneed contract.

(f) "Crematory" means an organization as defined in Section 73-11-41.

(g) "Financial institution" means a bank, trust company, savings bank, or savings and loan association chartered or authorized to do business in this state.

(h) "Funeral home" means a business licensed under Section 73-11-55.

(i) "Inflation proof contract" means a preneed contract that establishes a fixed price for funeral services and merchandise without regard to future price increases.

(j) "Insurance" means a life insurance policy, an annuity policy or a Class A or Class B burial insurance policy.

(k) "Merchandise" means personal property associated with the disposal of or memorializing a deceased human being, including, but not limited to, a casket, burial vault, burial clothes, urn or monument.

(l) "Preneed contract" means any contract, agreement or any series or combination of contracts or agreements, whether funded by trust deposits or insurance, or any combination thereof, which has for a purpose the furnishing or performance of funeral services, or the furnishing or delivery of merchandise, of any nature in connection with the final disposition of a dead human body, to be furnished or delivered at a time determinable by the death of the person whose body is to be disposed of but shall not mean the furnishing of a cemetery lot, crypt, niche or mausoleum.

(m) "Preneed contract for caskets" means any contract, agreement or any series or combination of contracts or agreements, whether funded by trust deposits or insurance, or any combination thereof, that is for the purpose of furnishing or delivering a

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casket or caskets for the final disposition of a dead human body, to be furnished or delivered at a time determinable by the death of the person whose body is to be disposed of.

(n) "Seller" means the person who sells a preneed contract.

(o) "Services" means services of any nature in connection with the final disposition of a dead human body.

(p) "Standard contract" means a preneed contract that applies the trust funds or insurance proceeds to the purchase price of specific funeral services and specific merchandise at the time of death of the contract insured without a guarantee against future price increases.

(q) "Substitute provider" means any funeral home, cemetery, or other provider of merchandise and/or services who furnishes final needs to a beneficiary of a preneed contract sold by another provider regardless of whether the substitute provider honors the terms and conditions of the original preneed contract.

(r) "Trust" means an express trust created by a trust instrument whereby a trustee has the duty to administer a trust asset for the benefit of a named preneed contract insured.

(s) "Trustee" or "trust officer" means an original, added or successor trustee including its successor by merger or consolidation.

(t) "Trust documents" means documents, including, but not limited to, preneed contracts, receipts, contract owner's death certificate, proof of death, the trust agreement, and any and all correspondence between the trustee or trust institution and the contract provider or contract insured.

SECTION 2. Section 75-63-59, Mississippi Code of 1972, is amended as follows:

75-63-59. (1) If the contract is funded by trust, the Secretary of State shall be given a copy of the trust agreement, which the Secretary of State shall review and approve in advance.

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The Secretary of State may at any time require the submission of the trust agreement for review and approval from any preneed provider. The Secretary of State shall approve in advance any amendments or modifications to the trust agreement. The Secretary of State shall be informed in writing as to how the assets of the trust are held. In the event of any change in the investment composition of the trust assets, or change in the trustee or trust institution, the Secretary of State shall be informed within ten (10) days after the time the change occurs.

(2) Any trustee, other than a financial institution, shall not be the contract provider, the seller, or an officer or director of the contract provider if the contract provider is a corporation.

(3) (a) In no event may trust funds be loaned, directly or indirectly, to any of the following persons: the preneed provider; any entity in which the preneed provider has any financial interest; any employee, director, member, stockholder, partner, full or partial owner, or principal of the preneed provider; or any person related by blood or marriage to any of those persons.

(b) In no event may trust funds, directly or indirectly, be invested in or with any business or business venture in which any of the following persons have an interest: the preneed provider; any entity in which the preneed provider has any financial interest; any employee, director, member, stockholder, partner, full or partial owner, or principal of the preneed provider; or any person related by blood or marriage to any of those person.

(4) Not later than the fifth day of the following month from when funds are received, the contract seller shall place in a trust account in a financial institution as defined by this article at least eighty-five percent (85%) of the funds received for funeral services and merchandise. The contract shall disclose

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to the purchaser in boldface type the percentage of funds the seller is required to trust along with the name of the trust officer, the trust institution, the address and phone number of the same. The purchaser shall initial the corresponding paragraph in the contract indicating notice of the trust percentage and acknowledge being provided the name of the trust officer, the trust institution, address and phone number. The contract seller must provide the trustee with documentation containing the contract owner's identity and allocable share for each remittance. Trust accounts shall be carried in the name of the preneed seller, but accounting records shall be established and maintained for each individual preneed funeral contract beneficiary showing the amounts deposited and invested. The Secretary of State may by rule address the recordkeeping required for interest, dividends, increases and accretions earned.

(5) Reasonable annual trust fees including any income taxes owed to the State of Mississippi and/or the United States Treasury may be withheld from the earnings of the trust.

(6) At the time of death, if the contract provider provides the merchandise and services indicated in the contract, the contract provider shall furnish to the trustee a copy of the preneed contract, contract owner's death certificate or proof of death, and a letter of performance indicating that the contracted merchandise and services were provided by the contract provider to the contract insured. Upon receipt of the letter of performance and death certificate, or proof of death, the trustee shall pay to the contract provider all funds, which shall not be less than the amount deposited in trust. In the limited instance only when a preneed provider furnishes a personalized, engraved marker, headstone or monument before death, the trustee may disburse to the preneed provider compensation for the engraved marker, headstone or monument as well as any associated engraving, setting or delivery fees. In those instances, no disbursement from the

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trust shall be made until the trustee receives from the preneed provider a delivery ticket or invoice, documentation for the engraving of identifying information regarding the purchaser, and a letter of performance indicating that the engraved marker, headstone or monument has been provided.

Any trust officer or trust institution that releases trust funds for funeral services or merchandise in a manner contrary with the provisions of this article shall be liable for the same. Furthermore, any trustee or trust institution that engages in fraud, deceit, misrepresentation, or misappropriation of trust funds to the detriment of a contract provider or a contract insured shall be liable for the same.

(7) If a substitute provider was named by the contract beneficiary, during his life, or by one with the legal authority to act on his behalf at any time, the substitute provider shall provide the trustee with a death certificate or published obituary along with an invoice verifying that the substitute provider serviced the final needs of the beneficiary. Within ten (10) days of receipt of the documentation of death and invoice from the substitute provider, the trustee shall pay the substitute provider or the estate of the contract beneficiary not less than the amount deposited in trust on behalf of the serviced beneficiary. For all trust funded preneed contracts sold on or after July 1, 2012, the trustee shall pay the substitute provider not less than the amount deposited into trust on behalf of the serviced beneficiary in addition to all earnings, interest and income on the beneficiary's principal.

(8) Preneed trust funds are exempt from all claims of creditors of the preneed provider, except as to the claims of the contract purchaser or his representatives, and cannot be used as collateral, pledged or in any way encumbered or placed at risk.

SECTION 3. Section 75-63-63, Mississippi Code of 1972, is amended as follows:

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75-63-63. Preneed contracts entered into in this state shall be portable. * * * The naming of a substitute provider shall be in writing by the contract beneficiary or by one who is authorized by law to act on their behalf. If the preneed contract is funded by trust, the notice of a substitute provider shall be made to the original preneed contract seller and the trustee * * * holding funds for the beneficiary. Upon receipt of the notice of substitute provider, the original provider shall be relieved of all obligations to perform the contract including all obligations of reporting and accounting. If the preneed contract is funded by insurance, the change of beneficiary shall be made in writing to the insurance company. If for any reason insurance proceeds are paid to a preneed seller who did not furnish the final needs of the beneficiary at their time of need, the policy proceeds shall be paid in full to the substitute provider or the estate of the preneed beneficiary within ten (10) days of receipt.

SECTION 4. Section 75-63-68, Mississippi Code of 1972, is amended as follows:

75-63-68. A registered preneed contract provider may convert trust funded prepaid funeral benefits to insurance funded prepaid funeral benefits or annuity contracts upon appeal to the Secretary of State. If approved, the Secretary of State shall issue an order authorizing the withdrawal of funds for the provider to purchase * * * preneed insurance * * * or annuity contracts * * *. The preneed seller shall disclose in writing to all affected preneed purchasers the terms of the insurance policy or annuity contract. Except as provided in this section, no funds deposited in trust with a trustee shall be withdrawn by the trustee to purchase a preneed insurance policy or annuity contracts.

SECTION 5. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2586

Description: Comprehensive Health Insurance Risk Pool Association; increase membership of board of directors.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 02/20 (S) Referred To Insurance
- 2 02/29 (S) Title Suff Do Pass
- 3 03/07 (S) Passed *(Vote)*
- 4 03/08 (S) Transmitted To House
- 5 03/14 (H) Referred To Insurance
- 6 03/20 (H) Title Suff Do Pass
- 7 03/21 (H) Passed *(Vote)*
- 8 03/22 (H) Transmitted To Senate
- 9 03/26 (S) Enrolled Bill Signed
- 10 03/27 (H) Enrolled Bill Signed
- 11 03/30 Approved by Governor

Code Section: A 083-0009-0211

----- Additional Information -----

Senate Committee: Insurance

House Committee: Insurance

Principal Author: Carmichael

Additional Authors: Jackson (11th)

2012 GENERAL LAWS OF MISSISSIPPI, SB 2586

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Carmichael, Jackson (11th)

To: Insurance

SENATE BILL NO. 2586

AN ACT TO AMEND SECTION 83-9-211, MISSISSIPPI CODE OF 1972, TO ENLARGE THE BOARD OF DIRECTORS OF THE COMPREHENSIVE HEALTH INSURANCE RISK POOL ASSOCIATION TO INCLUDE TWO ADDITIONAL MEMBERS TO BE APPOINTED BY THE COMMISSIONER OF INSURANCE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-9-211, Mississippi Code of 1972, is amended as follows:

83-9-211. (1) There is created a nonprofit legal entity to be known as the "Comprehensive Health Insurance Risk Pool Association." All insurers, as a condition of doing business, shall be members of the association.

(2) (a) The association shall operate subject to the supervision and approval of an eleven-member board of directors consisting of:

(i) Six (6) members appointed by the Insurance Commissioner. Two (2) of the commissioner's appointees shall be chosen from the general public and shall not be associated with the medical profession, a hospital or an insurer. Two (2) appointees shall be representatives of medical providers. One (1) appointee shall be a representative of businesses employing fewer than one hundred (100) employees. One (1) appointee shall be a representative of health insurance agents. Any board member appointed by the commissioner may be removed and replaced by him at any time without cause.

(ii) Three (3) members appointed by the participating insurers, at least one (1) of whom is a domestic insurer.

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(iii) The Chair of the Senate Insurance Committee and the Chair of the House Insurance Committee, or their designees, who shall be nonvoting, ex officio members of the board.

(iv) Of those initial members appointed by the Insurance Commissioner, one (1) shall serve for a term of one (1) year, two (2) for a term of two (2) years, and one (1) for a term of three (3) years. Of those initial members appointed by the participating insurers, one (1) shall serve for a term of one (1) year, one (1) shall serve for a term of two (2) years, and one (1) shall serve for a term of three (3) years. The appointing authority shall designate the period of service of each initial appointee at the time of appointment.

(v) All appointments after the initial term shall be for a term of three (3) years.

(b) The board of directors shall elect one (1) of its members as chairman.

(c) Board members may be reimbursed from monies of the association for actual and necessary expenses incurred by them as members in the manner and amount provided in Section 25-3-41, Mississippi Code of 1972, but shall not otherwise be compensated for their services.

(3) The association shall adopt a plan in accordance with Sections 83-9-201 through 83-9-222 and submit its articles, bylaws and operating rules to the State Department of Insurance for approval. If the association fails to adopt such plan and suitable articles, bylaws and operating rules within ninety (90) days after the appointment of the board, the State Department of Insurance shall adopt rules to effectuate the provisions of Sections 83-9-201 through 83-9-222; and such rules shall remain in effect until superseded by a plan and articles, bylaws and operating rules submitted by the association and approved by the State Department of Insurance.

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(4) Individual board members shall not be liable and shall be immune from suit at law or equity for any conduct performed in good faith and which is within the subject matter over which they have been given jurisdiction.

SECTION 2. This act shall take effect and be in force from and after its passage.

**Mississippi Legislature
2012 Regular Session
Senate Bill 2613**

Description: Income tax; extend repeal date on tax credit for certain charges for using certain port facilities and airports.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: Passage

History of Actions:

- 1 02/20 (S) Referred To Finance
- 2 03/01 (S) Title Suff Do Pass Comm Sub
- 3 03/12 (S) Committee Substitute Adopted
- 4 03/12 (S) Passed (Vote)
- 5 03/14 (S) Transmitted To House
- 6 03/19 (H) Referred To Ways and Means
- 7 03/29 (H) Title Suff Do Pass
- 8 04/04 (H) Passed (Vote)
- 9 04/05 (H) Transmitted To Senate
- 10 04/10 (S) Enrolled Bill Signed
- 11 04/11 (H) Enrolled Bill Signed
- 12 04/17 Approved by Governor

Code Section: R 027-0007-0022.7, R 027-0007-0022.9, RA 027-0007-0022.25, R 027-0007-0022.26

----- Additional Information -----

Senate Committee: Finance

House Committee: Ways and Means

Principal Author: Fillingane

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Fillingane

To: Finance

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2613

AN ACT TO REENACT SECTIONS 27-7-22.7 AND 27-7-22.9, MISSISSIPPI CODE OF 1972, WHICH PROVIDE AN INCOME TAX CREDIT FOR INCOME TAXPAYERS THAT USE PORT FACILITIES AT STATE, COUNTY AND MUNICIPAL PORTS FOR THE EXPORT OF CARGO AND REQUIRE THE MISSISSIPPI DEVELOPMENT AUTHORITY TO REPORT ANNUALLY TO THE LEGISLATURE REGARDING THE IMPACT OF SUCH TAX CREDIT; TO AMEND SECTION 4, CHAPTER 492, LAWS OF 1994, AS LAST AMENDED BY SECTION 3, CHAPTER 322, LAWS OF 2009, TO EXTEND THE DATE OF REPEAL ON SECTIONS 27-7-22.7 AND 27-7-22.9; TO REENACT AND AMEND SECTION 27-7-22.25, MISSISSIPPI CODE OF 1972, WHICH PROVIDES AN INCOME TAX CREDIT FOR CERTAIN TAXPAYERS THAT USE THE AIRPORT FACILITIES AT PUBLIC AIRPORTS FOR CERTAIN CHARGES PAID BY THE TAXPAYER ON THE EXPORT OR IMPORT OF CARGO; TO REENACT SECTION 27-7-22.26, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE MISSISSIPPI DEVELOPMENT AUTHORITY TO REPORT ANNUALLY TO THE LEGISLATURE REGARDING THE IMPACT OF THE TAX CREDIT; TO AMEND SECTION 3, CHAPTER 442, LAWS OF 2005, AS LAST AMENDED BY SECTION 3, CHAPTER 323, LAWS OF 2009, TO EXTEND THE DATE OF REPEAL ON SECTIONS 27-7-22.25 AND 27-7-22.26; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-7-22.7, Mississippi Code of 1972, is reenacted as follows:

27-7-22.7. (1) As used in this section, the term "port" means a state, county or municipal port or harbor established pursuant to Sections 59-5-1 through 59-5-69, Sections 59-7-1 through 59-7-519, 59-9-1 through 59-9-85 or Sections 59-11-1 through 59-11-7.

(2) For any income taxpayer utilizing the port facilities at any port for the export of cargo that is loaded on a carrier calling at any such port, a credit against the taxes imposed pursuant to this chapter shall be allowed in the amounts provided in this section.

(3) Except as otherwise provided by subsection (5) of this section, the amount of the credit allowed pursuant to this section

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shall be the total of the following charges on export cargo paid by the corporation:

- (a) Receiving into the port;
- (b) Handling to a vessel; and
- (c) Wharfage.

(4) The credit provided for in this section shall not exceed fifty percent (50%) of the amount of tax imposed upon the taxpayer for the taxable year reduced by the sum of all other credits allowable to such taxpayer under this chapter, except credit for tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding five (5) years. The maximum cumulative credit that may be claimed by a taxpayer pursuant to this section and for the period of time beginning on January 1, 1994, and ending on December 31, 2005, is limited to One Million Two Hundred Thousand Dollars (\$1,200,000.00).

(5) To obtain the credit provided for in this section, a taxpayer must provide to the State Tax Commission a statement from the governing authority of the port certifying the amount of charges paid by the taxpayer for which a credit is claimed and any other information required by the State Tax Commission.

(6) The purpose of the tax credit provided for in this section is to promote the increased use of ports and related facilities in this state, particularly by those taxpayers which would not otherwise use such ports and related facilities without the benefit of such tax credit, and increase the number of port related jobs and other economic development benefits associated with the increased use of such ports and related facilities. It is the intent of the Legislature that in determining whether or not such tax credit will be continued in future years, the attainment of the purposes set forth in this subsection must be demonstrated by the material contained in the reports prepared by the Mississippi Development Authority under Section 27-7-22.9.

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SECTION 2. Section 27-7-22.9, Mississippi Code of 1972, is reenacted as follows:

27-7-22.9. The Mississippi Development Authority shall report annually to the Legislature regarding the impact of the credit granted in Section 27-7-22.7 on shipping and economic growth. Each report shall show the overall annual increase on shipping at each port for the most recent year for which data is available and for each of the previous five (5) years. Each report shall estimate the number of jobs created or retained at each port and in businesses related to port activity at each port since January 1, 1994, as compared to the number of similar jobs created during the ten (10) years preceding January 1, 1994. Each report shall state the net economic impact on the state as a result of the tax credit provided for in Section 27-7-22.7. The Mississippi Development Authority shall file a copy of the report with the Governor, the Secretary of the Senate, the Clerk of the House of Representatives and the Chairmen of the House Ways and Means Committee and the Senate Finance Committee of the Legislature on May 1 of each year. The State Tax Commission and all state, county and municipal ports shall cooperate with the Mississippi Development Authority in providing the information required in the annual reports.

SECTION 3. Section 4, Chapter 492, Laws of 1994, as amended by Section 3, Chapter 548, Laws of 1998, as amended by Section 3, Chapter 537, Laws of 2002, as amended by Section 3, Chapter 457, Laws of 2005, as amended by Section 3, Chapter 322, Laws of 2009, is amended as follows:

Section 4. This act shall take effect and be in force from and after January 1, 1994, and shall stand repealed from and after December 31, 2016.

SECTION 4. Section 27-7-22.25, Mississippi Code of 1972, is reenacted and amended as follows:

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27-7-22.25. (1) As used in this section, the term "airport" means an airport established pursuant to Chapters 3 and 5, Title 61, Mississippi Code of 1972.

(2) Subject to the provisions of this section, for any income taxpayer utilizing the facilities at any airport for the export or import of cargo that is unloaded from a carrier at any such airport, a credit against the taxes imposed pursuant to this chapter shall be allowed in the amounts provided in this section. In order to be eligible for the credit authorized under this section, a taxpayer must locate its United States headquarters in Mississippi on or after July 1, 2005, employ at least five (5) new permanent full-time employees who actually work at such headquarters and, after July 1, 2005, invest a minimum of Two Million Dollars (\$2,000,000.00), in the aggregate, in real property and/or personal property in Mississippi. For the purposes of this section, "full-time employee" shall mean an employee who works at least thirty-five (35) hours per week.

(3) Except as otherwise provided by subsection (4) of this section, the amount of the credit allowed pursuant to this section shall be the total of the following charges on import or export of cargo paid by the corporation:

- (a) Receiving into the airport;
- (b) Aircraft marshalling or handling fees; and
- (c) Aircraft landing fees.

(4) The credit provided for in this section shall not exceed fifty percent (50%) of the amount of tax imposed upon the taxpayer for the taxable year reduced by the sum of all other credits allowable to such taxpayer under this chapter, except credit for tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding five (5) years. The maximum cumulative credit that may be claimed by a taxpayer under this section is limited to One Million Dollars (\$1,000,000.00) if the taxpayer employs at least five (5), but not

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more than twenty-five (25) permanent full-time employees at its headquarters in Mississippi; Two Million Dollars (\$2,000,000.00) if the taxpayer employs more than twenty-five (25), but not more than one hundred (100) permanent full-time employees at its headquarters in Mississippi; Three Million Dollars (\$3,000,000.00) if the taxpayer employs more than one hundred (100), but not more than two hundred (200) permanent full-time employees at its headquarters in Mississippi; and Four Million Dollars (\$4,000,000.00) if the taxpayer employs more than two hundred (200) permanent full-time employees at its headquarters in Mississippi.

(5) To obtain the credit provided for in this section, a taxpayer must provide to the Department of Revenue a statement from the governing authority of the airport certifying the amount of charges paid by the taxpayer for which a credit is claimed and any other information required by the Department of Revenue.

(6) Any taxpayer who is eligible, before July 1, 2016, for the credit provided for in this section, shall remain eligible for such credit after July 1, 2016, notwithstanding the repeal of this section.

SECTION 5. Section 27-7-22.26, Mississippi Code of 1972, is reenacted as follows:

27-7-22.26. The Mississippi Development Authority shall report annually to the Legislature regarding the impact of the credit granted in Section 27-7-22.25 on shipping and economic growth. Each report shall show the overall annual increase in shipping at each airport for the most recent year for which data is available and for each of the previous five (5) years. Each report shall estimate the number of jobs created or retained at each airport and in businesses related to airport activity at each airport since January 1, 2006, as compared to the number of similar jobs created during the ten (10) years preceding January 1, 2006. Each report shall state the net economic impact on the

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state as a result of the tax credit provided for in Section 27-7-22.25. The Mississippi Development Authority shall file a copy of the report with the Governor, the Secretary of the Senate, the Clerk of the House of Representatives and the Chairmen of the House Ways and Means Committee and the Senate Finance Committee of the Legislature on May 1 of each year. The State Tax Commission and all state, regional, county and municipal airports shall cooperate with the Mississippi Development Authority in providing the information required in the annual reports.

SECTION 6. Section 3, Chapter 442, Laws of 2005, as amended by Section 3, Chapter 519, Laws of 2007, as amended by Section 3, Chapter 323, Laws of 2009, is amended as follows:

Section 3. Sections 1 and 2 of this act shall stand repealed from and after July 1, 2016.

SECTION 7. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

Senate Bill 2618

Description: Insurance adjusters; provide certain exemption to licensure requirement of.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (S) Referred To Insurance
- 2 02/29 (S) Title Suff Do Pass
- 3 03/07 (S) Passed {Vote}
- 4 03/08 (S) Transmitted To House
- 5 03/14 (H) Referred To Insurance
- 6 03/20 (H) Title Suff Do Pass
- 7 03/21 (H) Amendment Failed
- 8 03/21 (H) Passed {Vote}
- 9 03/21 (H) Motion to Reconsider Entered (Eaton, Chism, Buck (5th), Banks)
- 10 03/23 (H) Motion to Reconsider Tabled
- 11 03/23 (H) Transmitted To Senate
- 12 03/26 (S) Enrolled Bill Signed
- 13 03/27 (H) Enrolled Bill Signed
- 14 04/02 Approved by Governor

Amendments:

  [H] Amendment No 1 **Lost** {Vote}

Code Section: A 083-0017-0401, A 083-0017-0407

----- Additional Information -----

Senate Committee: Insurance

House Committee: Insurance

Principal Author: Carmichael

Additional Authors: Jackson (11th)

2012 GENERAL LAWS OF MISSISSIPPI, SB 2618

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Carmichael, Jackson (11th)

To: Insurance

SENATE BILL NO. 2618

AN ACT TO AMEND SECTION 83-17-401, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF "ADJUSTER" WITHIN THE LAWS REGARDING LICENSING OF INSURANCE ADJUSTERS TO MAKE AN EXCEPTION FOR PERSONS WHO COLLECT CLAIM INFORMATION FROM, OR FURNISH CLAIM INFORMATION TO, INSURED OR CLAIMANTS, AND WHO PERFORM DATA ENTRY INCLUDING ENTERING DATA INTO AN AUTOMATED CLAIMS ADJUDICATION SYSTEM, IF THE PERSON IS AN EMPLOYEE OF A LICENSED INDEPENDENT ADJUSTER OR ITS AFFILIATE WHERE NO MORE THAN 25 SUCH PERSONS ARE UNDER THE SUPERVISION OF ONE LICENSED INDEPENDENT ADJUSTER OR LICENSED AGENT; TO AMEND SECTION 83-17-407, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE COMMISSIONER OF INSURANCE FROM DENYING RECIPROCITY FOR AN INSURANCE ADJUSTER APPLICANT WITH A VALID LICENSE FROM ANOTHER STATE SOLELY BECAUSE THAT PERSON IS NOT A RESIDENT OF THE UNITED STATES OF AMERICA; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-17-401, Mississippi Code of 1972, is amended as follows:

83-17-401. As used in this article, unless the context otherwise requires:

(a) "Adjuster" means any person who, as an independent contractor, or as an employee of an independent contractor, adjustment bureau, association, insurance company or corporation, managing general agent or self-insured, investigates or adjusts losses on behalf of either an insurer or a self-insured, or any person who supervises the handling of claims. "Adjuster" shall not include:

(i) An attorney-at-law who adjusts insurance losses from time to time and incidental to the practice of law, and who does not advertise or represent that he is an adjuster;

(ii) A salaried employee of an insurer who is regularly engaged in the adjustment, investigation or supervision of insurance claims;

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(iii) Persons employed only for the purpose of furnishing technical assistance to a licensed adjuster, including, but not limited to, photographers, estimators, private detectives, engineers, handwriting experts and attorneys-at-law;

(iv) A licensed agent or general agent of an authorized insurer who processes undisputed or uncontested losses, or both, for such insurer under policies issued by the licensed agent or general agent;

(v) A person who performs clerical duties with no negotiations with the parties on disputed or contested claims, or both;

(vi) Any person who handles claims arising under life, accident and health insurance policies; * * *

(vii) Any person who is a multiperil crop insurance adjuster; or

(viii) Any person who collects claim information from, or furnishes claim information to, insureds or claimants, and who performs data entry including entering data into an automated claims adjudication system, if the person is an employee of a licensed independent adjuster or its affiliate where no more than twenty-five (25) such persons are under the supervision of one (1) licensed independent adjuster or licensed agent. A licensed agent who is acting as a supervisor and adjusting portable electronics insurance claims in accordance with this subparagraph does not need to be licensed as an adjuster.

(b) "Insurer" means any insurance company or self-insured.

(c) "Commissioner" means the Commissioner of Insurance.

(d) "Automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation and final resolution of portable electronics insurance claims which:

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(i) May only be utilized by a licensed independent adjuster, licensed agent or supervised persons operating in accordance with paragraph (a)(viii) of this section; and

(ii) Must comply with all claims payment requirements of the insurance code; and must be certified as compliant with this section by a licensed independent adjuster that is an officer of a licensed business entity under this chapter.

SECTION 2. Section 83-17-407, Mississippi Code of 1972, is amended as follows:

83-17-407. The commissioner may waive any license requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state. No applicant with a valid license from another state shall be rejected solely on the basis that the individual is not a resident of the United States of America.

SECTION 3. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2626

Description: Surplus lines insurance; nonadmitted policy fee shall be set at certain percentage.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (S) Referred To Insurance
- 2 02/29 (S) Title Suff Do Pass Comm Sub
- 3 03/12 (S) Committee Substitute Adopted
- 4 03/12 (S) Passed {Vote}
- 5 03/14 (S) Transmitted To House
- 6 03/19 (H) Referred To Insurance
- 7 03/20 (H) Title Suff Do Pass As Amended
- 8 03/21 (H) Amended
- 9 03/21 (H) Passed As Amended {Vote}
- 10 03/22 (H) Returned For Concurrence
- 11 04/04 (S) Concurred in Amend From House {Vote}
- 12 04/10 (S) Enrolled Bill Signed
- 13 04/11 (H) Enrolled Bill Signed
- 14 04/17 Approved by Governor

Amendments:

  [H] Committee Amendment No 1 *Adopted* {Vote}

  Amendment Report for Senate Bill No. 2626

Code Section: A 083-0034-0004

----- Additional Information -----

Senate Committee: Insurance

House Committee: Insurance

2012 GENERAL LAWS OF MISSISSIPPI, SB 2626

Principal Author: Carmichael

Additional Authors: Jackson (11th)

2012 GENERAL LAWS OF MISSISSIPPI, SB 2626

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Carmichael, Jackson (11th)

To: Insurance

SENATE BILL NO. 2626
(As Sent to Governor)

AN ACT TO AMEND SECTION 83-34-4, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE NONADMITTED POLICY FEE COLLECTED BY SURPLUS LINES INSURANCE PRODUCERS ON PREMIUMS FOR INSURANCE FROM NONADMITTED INSURERS SHALL BE A CERTAIN PERCENTAGE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-34-4, Mississippi Code of 1972, is amended as follows:

83-34-4. (1) Nonadmitted insurers shall not be assessable insurers of the association. All surplus lines insurance producers placing insurance through nonadmitted insurers shall collect from the insured and remit to the association a nonadmitted policy fee on all premiums * * * for all insurance written by such surplus lines insurance producer for a policy from a nonadmitted insurer for any and all risks in this state. By procuring or selling insurance on property in this state from a nonadmitted insurer, each surplus lines insurance producer placing insurance through a nonadmitted insurer agrees to be bound by the provisions of this chapter and to collect and remit the nonadmitted policy fee provided for herein.

(2) The nonadmitted policy fee shall be a percentage of the total policy premium but the nonadmitted policy fee shall not be considered premium and is not subject to premium taxes or commissions. However, failure to pay the nonadmitted policy fee shall be treated the same as failure to pay premium. "Total policy premium" includes taxes and commissions.

(3) The nonadmitted policy fee percentage shall be three percent (3%).

2012 GENERAL LAWS OF MISSISSIPPI, SB 2626

(4) Within twenty (20) days of the end of the quarter, surplus lines insurance producers placing insurance through nonadmitted insurers shall remit directly to the association all nonadmitted policy fees collected in the preceding quarter. In addition to the nonadmitted policy fee provided for herein, surplus lines insurance producers placing insurance through nonadmitted insurers shall collect and remit surcharges as provided by this chapter. Surplus lines insurance producers placing insurance through nonadmitted insurers may designate another surplus lines insurance producer that actually procured the insurance from the nonadmitted carrier to collect and remit the nonadmitted policy fees.

(5) Each insured in this state who directly procures or renews insurance with a nonadmitted insurer on properties, risks or exposures located or to be performed, in whole or in part, in this state, other than insurance procured through a surplus lines licensee, shall be subject to the nonadmitted policy fee which shall be paid by the insured according to the procedures provided for premium taxes in Section 83-21-17(5).

(6) This section shall stand repealed from and after July 1, 2014.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2628

Description: Surplus lines insurance producers; require to execute form promulgated by Commissioner of Insurance stating certain facts.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (S) Referred To Insurance
- 2 02/29 (S) Title Suff Do Pass
- 3 03/07 (S) Passed [Vote]
- 4 03/08 (S) Transmitted To House
- 5 03/14 (H) Referred To Insurance
- 6 03/20 (H) Title Suff Do Pass
- 7 03/21 (H) Passed [Vote]
- 8 03/22 (H) Transmitted To Senate
- 9 03/26 (S) Enrolled Bill Signed
- 10 03/27 (H) Enrolled Bill Signed
- 11 03/30 Approved by Governor

Code Section: A 083-0021-0023

----- Additional Information -----

Senate Committee: Insurance

House Committee: Insurance

Principal Author: Carmichael

2012 GENERAL LAWS OF MISSISSIPPI, SB 2628

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Carmichael

To: Insurance

SENATE BILL NO. 2628

AN ACT TO AMEND SECTION 83-21-23, MISSISSIPPI CODE OF 1972, TO REQUIRE A SURPLUS LINES INSURANCE PRODUCER TO EXECUTE A FORM PROMULGATED BY THE COMMISSIONER OF INSURANCE SETTING FORTH FACTS AS TO WHY INSURANCE WAS NOT PLACED IN THE ADMITTED MARKET; TO REQUIRE THE SURPLUS LINES INSURANCE PRODUCER TO RETAIN SUCH FORM AND MAKE IT AVAILABLE TO THE COMMISSIONER UPON REQUEST; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-21-23, Mississippi Code of 1972, is amended as follows:

83-21-23. (1) When any policy of insurance or certificate of insurance is procured under the authority of such license, there shall be executed by the surplus lines insurance producer a form setting forth facts in complete detail as to what was done to place such kind of insurance and showing that such surplus lines insurance producer therein was unable, after diligent effort, to procure from a licensed company or companies the full amount of insurance required to protect the property, liability, or risk desired to be insured * * *. This form shall be maintained on file with the surplus lines insurance producer and may be subject to review by the Commissioner of Insurance at any time if the commissioner deems such request advisable.

The Commissioner of Insurance may promulgate rules and regulations and establish appropriate fees for the implementation of Sections 83-21-17 through 83-21-31.

(2) (a) A surplus lines insurance producer is not required to make a due diligence search to determine whether the full amount or type of insurance can be obtained from admitted insurers when the surplus lines insurance producer is seeking to procure or

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place nonadmitted insurance for an exempt commercial purchaser provided:

(i) The surplus lines insurance producer procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and

(ii) The exempt commercial purchaser has subsequently requested in writing for the surplus lines insurance producer to procure or place such insurance from a nonadmitted insurer.

(b) The term "exempt commercial purchaser" means any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

(i) The person employs or retains a qualified risk manager, as defined in Section 527(13) of the Nonadmitted and Reinsurance Reform Act of 2010, to negotiate insurance coverage.

(ii) The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of One Hundred Thousand Dollars (\$100,000.00) in the immediately preceding twelve (12) months.

(iii) 1. The person meets at least one (1) of the following criteria:

a. The person possesses a net worth in excess of Twenty Million Dollars (\$20,000,000.00) as such amount is adjusted according to item 2 of this subparagraph (iii).

b. The person generates annual revenues in excess of Fifty Million Dollars (\$50,000,000.00) as such amount is adjusted according to item 2 of this subparagraph (iii).

c. The person employs more than five hundred (500) full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than one thousand (1,000) employees in the aggregate.

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d. The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least Thirty Million Dollars (\$30,000,000.00) as such amount is adjusted according to item 2 of this subparagraph (iii).

e. The person is a municipality with a population in excess of fifty thousand (50,000) persons.

2. Effective on January 1, 2015, and every five (5) years thereafter, the amounts in items 1a, 1b and 1d of this subparagraph (iii) shall be adjusted to reflect the percentage change for such five-year period in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics of the United States Department of Labor.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2651

Description: MS Building Code Council; shall furnish report to the Legislature on standards for a statewide building code.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (S) Referred To Insurance
- 2 02/29 (S) Title Suff Do Pass Comm Sub
- 3 03/07 (S) Committee Substitute Adopted
- 4 03/07 (S) Passed (Vote)
- 5 03/08 (S) Transmitted To House
- 6 03/14 (H) Referred To Insurance
- 7 03/20 (H) Title Suff Do Pass
- 8 03/21 (H) Passed (Vote)
- 9 03/22 (H) Transmitted To Senate
- 10 03/26 (S) Enrolled Bill Signed
- 11 03/27 (H) Enrolled Bill Signed
- 12 03/30 Approved by Governor

Code Section: A 017-0002-0003

----- Additional Information -----

Senate Committee: Insurance

House Committee: Insurance

Principal Author: Carmichael

Additional Authors: Jackson (11th)

2012 GENERAL LAWS OF MISSISSIPPI, SB 2651

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Carmichael, Jackson (11th)

To: Insurance

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2651

AN ACT TO AMEND SECTION 17-2-3, MISSISSIPPI CODE OF 1972, TO REQUIRE THE MISSISSIPPI BUILDING CODE COUNCIL TO SUBMIT A REPORT TO THE LEGISLATURE WITH RECOMMENDATIONS FOR A STATEWIDE MANDATORY BUILDING CODE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 17-2-3, Mississippi Code of 1972, is amended as follows:

17-2-3. (1) There is hereby created the Mississippi Building Codes Council. Each member of the council shall be appointed by the executive director of his respective professional association unless otherwise stated herein. Each member shall serve for a term of three (3) years and until a successor is appointed and qualifies. No person who has previously been convicted of a felony in this state or any other state may be appointed to the council. From and after July 1, 2009, all members of the council shall be residents of the State of Mississippi. The terms of the members serving on the council on April 26, 2011, shall expire on July 1, 2011. The council is hereby reconstituted and shall consist of the following eleven (11) members with terms beginning on July 1, 2011:

(a) One (1) representative of the American Institute of Architects of Mississippi;

(b) One (1) representative of the Associated General Contractors of Mississippi;

(c) One (1) representative of the Mississippi Manufactured Housing Association;

(d) One (1) representative of the Building Officials Association of Mississippi;

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(e) Two (2) representatives of the Home Builders Association of Mississippi;

(f) One (1) representative of the Associated Builders and Contractors of Mississippi;

(g) One (1) representative of the American Council of Engineering Companies of Mississippi;

(h) One (1) representative of the Mississippi Municipal League;

(i) One (1) representative of the Mississippi Association of Supervisors; and

(j) The Mississippi State Fire Marshal, or his designee, to serve ex officio, nonvoting.

(2) A vacancy must be filled in the manner of the original appointment for the unexpired portion of the term.

(3) Any member with unexcused absences for more than three (3) consecutive meetings shall be replaced by his sponsoring organization.

(4) The State Fire Marshal shall convene the first meeting of the reconstituted council before October 1, 2011, and shall act as temporary chairman until the council elects from its members a chairman and vice chairman. The council shall adopt regulations consistent with this act. A meeting may be called by the chairman on his own initiative, but must be called by him at the request of three (3) or more members of the council. Each member must be notified by the chairman in writing of the time and place of the meeting at least seven (7) days before the meeting. Four (4) members constitute a quorum. Each meeting is open to the public. An official decision of the council may be made only by a vote of at least two-thirds (2/3) of those members in attendance at the meeting.

(5) The council shall adopt by reference and amend only one (1) of the last three (3) editions of the following as discretionary statewide minimum codes:

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(a) International Building Code and the standards referenced in that code for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(b) International Residential Code (IRC) and the standards referenced in that code are included for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption, with the exception of Appendix J, Existing Buildings and Structures, which is hereby adopted by this reference.

(c) Other codes addressing matters such as electrical, plumbing, mechanical, fire and fuel gas.

(6) The initial code or codes adopted by this council under the provisions of this section shall be completed no later than July 1, 2007.

(7) Notwithstanding any other provision of law, the council shall not enact any ordinance, bylaw, order, building code or rule requiring the installation of a multipurpose residential fire protection sprinkler system or any other fire sprinkler protection system in a new or existing one- or two-family dwelling. However, the county boards of supervisors and municipal governing authorities may adopt, modify and enforce codes adopted by the council, including the adoption of codes which require the installation of fire protection sprinkler systems in any structure.

(8) On or before December 1, 2012, the council shall furnish to all members of the Legislature a report to be considered during the 2013 Regular Session that provides findings and recommendations for building and construction standards as the mandatory statewide minimum codes. The council shall make its

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recommendation from one (1) of the last three (3) editions of the following:

(a) International Building Code and the standards referenced in that code for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(b) International Residential Code (IRC) and the standards referenced in that code are included for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(c) Other codes addressing matters such as electrical, plumbing, mechanical, fire and fuel gas.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2656

Description: Income tax; extend repeal date on job tax credit for cut and sew jobs in the upholstered furniture industry.

Background Information:

Disposition: Law



Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (S) Referred To Finance
- 2 03/06 (S) Title Suff Do Pass
- 3 03/12 (S) Passed 
- 4 03/13 (S) Transmitted To House
- 5 03/14 (H) Referred To Ways and Means
- 6 03/29 (H) Title Suff Do Pass
- 7 04/04 (H) Passed 
- 8 04/05 (H) Transmitted To Senate
- 9 04/10 (S) Enrolled Bill Signed
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/17 Approved by Governor

Code Section: A 027-0007-0022.36

----- Additional Information -----

Senate Committee: Finance

House Committee: Ways and Means

Principal Author: Browning

Additional Authors: Bryan, Collins, Jolly, Wilemon

2012 GENERAL LAWS OF MISSISSIPPI, SB 2656

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Browning, Bryan, Collins,
Jolly, Wilemon

To: Finance

SENATE BILL NO. 2656

AN ACT TO AMEND SECTION 27-7-22.36, MISSISSIPPI CODE OF 1972, TO EXTEND UNTIL JULY 1, 2016, THE DATE OF REPEAL ON THE PROVISION OF LAW THAT AUTHORIZES A JOB TAX CREDIT FOR EACH FULL-TIME EMPLOYEE EMPLOYED IN A NEW CUT AND SEW JOB BY ENTERPRISES THAT OWN OR OPERATE AN UPHOLSTERED HOUSEHOLD FURNITURE MANUFACTURING FACILITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-7-22.36, Mississippi Code of 1972, is amended as follows:

27-7-22.36. (1) As used in this section:

(a) "Full-time employee" means an employee that works at least thirty-five (35) hours per week.

(b) "New cut and sew job" means a job in which the employee cuts and sews upholstery for upholstered household furniture and which job did not exist in this state before January 1, 2010.

(2) Any enterprise owning or operating an upholstered household furniture manufacturing facility is allowed a job tax credit for taxes imposed by this chapter equal to Two Thousand Dollars (\$2,000.00) annually for each full-time employee employed in a new cut and sew job for a period of five (5) years from the date the credit commences. The credit shall commence on the date selected by the enterprise. For the year in which the commencement date occurs, the credit will be determined based on the monthly average number of full-time employees employed in new cut and sew jobs subject to the Mississippi income tax withholding that are employed by the enterprise. For each year thereafter, the number of new cut and sew jobs shall be determined by

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comparing the monthly average number of full-time employees employed in new cut and sew jobs subject to the Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. The Department of Revenue shall verify that the jobs claimed by enterprises to obtain the credit meet the definition of the term "new cut and sew job." The State Tax Commission shall adjust the credit allowed each year for employment fluctuations.

(3) The credit that may be used each year shall be limited to an amount not greater than the total state income tax liability of the enterprise. Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credits were earned.

(4) The tax credits provided for in this section shall be in lieu of the tax credits provided for in Section 57-73-21 and any enterprise using the tax credit authorized in this section shall not use the tax credit authorized in Section 57-73-21.

(5) Any taxpayer who is eligible for the credit authorized in this section prior to January 1, 2013, shall be eligible for the credit authorized in this section, notwithstanding the repeal of this section, and shall be allowed to carry forward the credit after January 1, 2013, as provided for in subsection (3) of this section.

(6) This section shall be repealed from and after January 1, 2016.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2685

Description: Mississippi Uniform Anatomical Gift Act; extend repealer.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (S) Referred To Public Health and Welfare
- 2 02/29 (S) Title Suff Do Pass Comm Sub
- 3 03/07 (S) Committee Substitute Adopted
- 4 03/07 (S) Passed (Vote)
- 5 03/08 (S) Transmitted To House
- 6 03/14 (H) Referred To Public Health and Human Services
- 7 03/27 (H) Title Suff Do Pass
- 8 04/04 (H) Passed (Vote)
- 9 04/05 (H) Transmitted To Senate
- 10 04/10 (S) Enrolled Bill Signed
- 11 04/10 (H) Enrolled Bill Signed
- 12 04/16 Approved by Governor

Code Section: R 041-0039-0101, R 041-0039-0103, R 041-0039-0105, R 041-0039-0107, R 041-0039-0109, R 041-0039-0111, R 041-0039-0113, R 041-0039-0115, R 041-0039-0117, R 041-0039-0119, R 041-0039-0121, R 041-0039-0123, R 041-0039-0125, R 041-0039-0127, R 041-0039-0129, R 041-0039-0131, R 041-0039-0133, R 041-0039-0135, R 041-0039-0137, R 041-0039-0139, R 041-0039-0141, R 041-0039-0143, R 041-0039-0145, R 041-0039-0147, A 041-0039-0149

----- Additional Information -----

Senate Committee: Public Health and Welfare

House Committee: Public Health and Human Services

Principal Author: Burton

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Burton

To: Public Health and
Welfare

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2685

AN ACT TO REENACT SECTIONS 41-39-101 THROUGH 41-39-147, MISSISSIPPI CODE OF 1972, WHICH IS THE MISSISSIPPI UNIFORM ANATOMICAL GIFT ACT (UAGA); TO AMEND SECTION 41-39-149, MISSISSIPPI CODE OF 1972, TO EXTEND THE AUTOMATIC REPEALER ON THE MISSISSIPPI UNIFORM ANATOMICAL GIFT ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 41-39-101, Mississippi Code of 1972, is reenacted as follows:

41-39-101. **Short title.** Sections 41-39-101 through 41-39-149 may be cited as the Revised Mississippi Uniform Anatomical Gift Act (UAGA).

SECTION 2. Section 41-39-103, Mississippi Code of 1972, is reenacted as follows:

41-39-103. **Definitions.** In Sections 41-39-101 through 41-39-149:

(1) "Adult" means an individual who is at least eighteen (18) years of age.

(2) "Agent" means an individual:

(A) Authorized to make health care decisions on the principal's behalf by a power of attorney for health care; or

(B) Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(4) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift. The term

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includes a stillborn infant and, subject to restrictions imposed by law other than Sections 41-39-101 through 41-39-149, a fetus.

(5) "Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to which an anatomical gift could pass under Section 41-39-121.

(6) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry.

(7) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(8) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(9) "Driver's license" means a license or permit issued by the Mississippi Department of Public Safety to operate a vehicle, whether or not conditions are attached to the license or permit.

(10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(11) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(12) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

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(13) "Identification card" means an identification card issued by the Mississippi Department of Public Safety.

(14) "Know" means to have actual knowledge.

(15) "Minor" means an individual who is under eighteen (18) years of age.

(16) "Organ procurement organization" means a person designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization.

(17) "Parent" means a parent whose parental rights have not been terminated.

(18) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) "Physician" means an individual authorized to practice medicine or osteopathy under the law of any state.

(21) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(22) "Prospective donor" means an individual who is dead or near death, Glasgow Coma Scale of five (5) or less, and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal.

(23) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(24) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

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(25) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(26) "Refusal" means a record created under Section 41-39-113 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(27) "Sign" means, with the present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic symbol, sound, or process.

(28) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(29) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(30) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(31) "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(32) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

SECTION 3. Section 41-39-105, Mississippi Code of 1972, is reenacted as follows:

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41-39-105. **Applicability.** Sections 41-39-101 through 41-39-149 apply to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

SECTION 4. Section 41-39-107, Mississippi Code of 1972, is reenacted as follows:

41-39-107. **Who may make anatomical gift before donor's death.** Subject to Section 41-39-115, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in Section 41-39-109 by:

(1) The donor, if the donor is an adult or if the donor is a minor and is:

(A) Emancipated; or

(B) Authorized under state law to apply for a driver's license because the donor is at least eighteen (18) years of age;

(2) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

(3) A parent of the donor, if the donor is an unemancipated minor; or

(4) The donor's guardian.

SECTION 5. Section 41-39-109, Mississippi Code of 1972, is reenacted as follows:

41-39-109. **Manner of making anatomical gift before donor's death.** (a) A donor may make an anatomical gift:

(1) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(2) In a will;

(3) During a terminal illness or injury of the donor, by any form of communication addressed to at least two (2) adults, at least one (1) of whom is a disinterested witness; or

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(4) As provided in subsection (b).

(b) A donor or other person authorized to make an anatomical gift under Section 41-39-107 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

(1) Be witnessed by at least two (2) adults, at least one (1) of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) State that it has been signed and witnessed as provided in paragraph (1).

(c) Revocation, suspension, expiration, or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(d) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

SECTION 6. Section 41-39-111, Mississippi Code of 1972, is reenacted as follows:

41-39-111. **Amending or revoking anatomical gift before donor's death.** (a) Subject to Section 41-39-115, a donor or other person authorized to make an anatomical gift under Section 41-39-107 may amend or revoke an anatomical gift by:

(1) A record signed by:

(A) The donor;

(B) The other person; or

(C) Subject to subsection (b), another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

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(2) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(b) A record signed pursuant to subsection (a)(1)(C) must:

(1) Be witnessed by at least two (2) adults, at least one (1) of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) State that it has been signed and witnessed as provided in paragraph (1).

(c) Subject to Section 41-39-115, a donor or other person authorized to make an anatomical gift under Section 41-39-107 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two (2) adults, at least one (1) of whom is a disinterested witness.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (a).

SECTION 7. Section 41-39-113, Mississippi Code of 1972, is reenacted as follows:

41-39-113. **Refusal to make anatomical gift; effect of refusal.** (a) An individual may refuse to make an anatomical gift of the individual's body or part by:

(1) A record signed by:

(A) The individual; or

(B) Subject to subsection (b), another individual acting at the direction of the individual if the individual is physically unable to sign;

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(2) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(3) Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two (2) adults, at least one (1) of whom is a disinterested witness.

(b) A record signed pursuant to subsection (a) (1) (B) must:

(1) Be witnessed by at least two (2) adults, at least one (1) of whom is a disinterested witness, who have signed at the request of the individual; and

(2) State that it has been signed and witnessed as provided in paragraph (1).

(c) An individual who has made a refusal may amend or revoke the refusal:

(1) In the manner provided in subsection (a) for making a refusal;

(2) By subsequently making an anatomical gift pursuant to Section 41-39-109 that is inconsistent with the refusal; or

(3) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(d) Except as otherwise provided in Section 41-39-115(h), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

SECTION 8. Section 41-39-115, Mississippi Code of 1972, is reenacted as follows:

41-39-115. **Preclusive effect of anatomical gift, amendment, or revocation.** (a) Except as otherwise provided in subsection (g) and subject to subsection (f), in the absence of an express,

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contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under Section 41-39-109 or an amendment to an anatomical gift of the donor's body or part under Section 41-39-111.

(b) A donor's revocation of an anatomical gift of the donor's body or part under Section 41-39-111 is not a refusal and does not bar another person specified in Section 41-39-107 or 41-39-117 from making an anatomical gift of the donor's body or part under Section 41-39-109 or 41-39-119.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under Section 41-39-109 or an amendment to an anatomical gift of the donor's body or part under Section 41-39-111, another person may not make, amend, or revoke the gift of the donor's body or part under Section 41-39-119.

(d) A revocation of an anatomical gift of a donor's body or part under Section 41-39-111 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under Section 41-39-109 or 41-39-119.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 41-39-107, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 41-39-107, an anatomical gift of a part for one or more of the purposes set forth in Section 41-39-107 is not a limitation on the making of an anatomical gift of the part for any of the other

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purposes by the donor or any other person under Section 41-39-109 or 41-39-119.

(g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

SECTION 9. Section 41-39-117, Mississippi Code of 1972, is reenacted as follows:

41-39-117. **Who may make anatomical gift of decedent's body or part.** (a) Subject to subsections (b) and (c) and unless barred by Section 41-39-113 or 41-39-115, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(1) An agent of the decedent at the time of death who could have made an anatomical gift under Section 41-39-107(2) immediately before the decedent's death;

(2) The spouse of the decedent;

(3) Adult children of the decedent;

(4) Parents of the decedent;

(5) Adult siblings of the decedent;

(6) Adult grandchildren of the decedent;

(7) Grandparents of the decedent;

(8) An adult who exhibited special care and concern for the decedent;

(9) The persons who were acting as the guardians of the person of the decedent at the time of death; and

(10) Any other person having the authority to dispose of the decedent's body.

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(b) If there is more than one (1) member of a class listed in subsection (a)(1), (3), (4), (5), (6), (7), or (9) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under Section 41-39-121 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (a) is reasonably available to make or to object to the making of an anatomical gift.

SECTION 10. Section 41-39-119, Mississippi Code of 1972, is reenacted as follows:

41-39-119. **Manner of making, amending, or revoking anatomical gift of decedent's body or part.** (a) A person authorized to make an anatomical gift under Section 41-39-117 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to subsection (c), an anatomical gift by a person authorized under Section 41-39-117 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one (1) member of the prior class is reasonably available, the gift made by a person authorized under Section 41-39-117 may be:

(1) Amended only if a majority of the reasonably available members agree to the amending of the gift; or

(2) Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

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(c) A revocation under subsection (b) is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

SECTION 11. Section 41-39-121, Mississippi Code of 1972, is reenacted as follows:

41-39-121. Persons that may receive anatomical gift; purpose of anatomical gift. (a) An anatomical gift may be made to the following persons named in the document of gift:

(1) A hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education;

(2) Subject to subsection (b), an individual designated by the person making the anatomical gift if the individual is the recipient of the part; or

(3) An eye bank or tissue bank.

(b) If an anatomical gift to an individual under subsection (a)(2) cannot be transplanted into the individual, the part passes in accordance with subsection (g) in the absence of an express, contrary indication by the person making the anatomical gift.

(c) If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection (a) but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the

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appropriate organ procurement organization as custodian of the organ.

(4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(d) For the purpose of subsection (c), if there is more than one (1) purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(e) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection (a) and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g).

(f) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g).

(g) For purposes of subsections (b), (e), and (f) the following rules apply:

(1) If the part is an eye, the gift passes to the appropriate eye bank.

(2) If the part is tissue, the gift passes to the appropriate tissue bank.

(3) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(h) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection (a)(2),

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passes to the organ procurement organization as custodian of the organ.

(i) If an anatomical gift does not pass pursuant to subsections (a) through (h) or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(j) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under Section 41-39-109 or 41-39-119 or if the person knows that the decedent made a refusal under Section 41-39-113 that was not revoked. For purposes of the subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(k) Except as otherwise provided in subsection (a)(2), nothing in Sections 41-39-101 through 41-39-149 affects the allocation of organs for transplantation or therapy.

SECTION 12. Section 41-39-123, Mississippi Code of 1972, is reenacted as follows:

41-39-123. **Search and notification.** (a) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(1) A law enforcement officer, fire fighter, paramedic, or other emergency rescuer finding the individual; and

(2) If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

(b) If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection (a)(1) and the individual or deceased individual to whom it relates is taken

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to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

(c) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

SECTION 13. Section 41-39-125, Mississippi Code of 1972, is reenacted as follows:

41-39-125. Delivery of document of gift not required; right to examine. (a) A document of gift need not be delivered during the donor's lifetime to be effective.

(b) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under Section 41-39-121.

SECTION 14. Section 41-39-127, Mississippi Code of 1972, is reenacted as follows:

41-39-127. Rights and duties of procurement organization and others. (a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Mississippi Department of Public Safety and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization must be allowed reasonable access to information in the records of the Mississippi Department of Public Safety to ascertain whether an individual at or near death is a donor.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability

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of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. The organ procurement organizations, tissue bank, or eye bank, or hospital medical professionals under the direction thereof, may perform any and all tests to evaluate the deceased as a potential donor and any invasive procedures on the deceased body in order to preserve the potential donor's organs. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent. The procurement organization representative shall initiate the consent process with reasonable discretion and sensitivity to the family's circumstances, values and beliefs.

(d) Unless prohibited by law other than Sections 41-39-101 through 41-39-149, at any time after a donor's death, the person to which a part passes under Section 41-39-121 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law other than Sections 41-39-101 through 41-39-149, an examination under subsection (c) or (d) may include an examination of all medical and dental records of the donor or prospective donor.

(f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) Upon referral by a hospital under subsection (a), a procurement organization shall make a reasonable search for any person listed in Section 41-39-117 having priority to make an anatomical gift on behalf of a prospective donor. If a

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procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(h) Subject to Sections 41-39-121(i) and 41-39-143, the rights of the person to which a part passes under Section 41-39-121 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and Sections 41-39-101 through 41-39-149, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under Section 41-39-121, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(i) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(j) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

SECTION 15. Section 41-39-129, Mississippi Code of 1972, is reenacted as follows:

41-39-129. Coordination of procurement and use. Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

SECTION 16. Section 41-39-131, Mississippi Code of 1972, is reenacted as follows:

41-39-131. Sale or purchase of parts prohibited. (a) Except as otherwise provided in subsection (b), a person that, for valuable consideration, knowingly purchases or sells a part for

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transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a felony and upon conviction is subject to a fine not exceeding Fifty Thousand Dollars (\$50,000.00) or imprisonment not exceeding five (5) years, or both.

(b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

SECTION 17. Section 41-39-133, Mississippi Code of 1972, is reenacted as follows:

41-39-133. **Other prohibited acts.** A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal commits a felony and upon conviction is subject to a fine not exceeding Fifty Thousand Dollars (\$50,000.00) or imprisonment not exceeding five (5) years, or both.

SECTION 18. Section 41-39-135, Mississippi Code of 1972, is reenacted as follows:

41-39-135. **Immunity.** (a) Any person who, in good faith and acting in reliance upon and authorization made under the provisions of Sections 41-39-101 through 41-39-149 and without notice of revocation thereof, takes possession of, performs surgical operations upon, removes tissue, substances or parts from the human body, or refuses such a gift, and any person who unknowingly fails to carry out the wishes of the donor according to the provisions of Sections 41-39-101 through 41-39-149 shall not be liable for damages in a civil action brought against him for that act.

(b) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

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(c) In determining whether an anatomical gift has been made, amended, or revoked under Sections 41-39-101 through 41-39-149, a person may rely upon representations of an individual listed in Section 41-39-117(a)(2), (3), (4), (5), (6), (7), or (8) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

SECTION 19. Section 41-39-137, Mississippi Code of 1972, is reenacted as follows:

41-39-137. **Law governing validity; choice of law as to execution of document of gift; presumption of validity.** (a) A document of gift is valid if executed in accordance with:

- (1) Sections 41-39-101 through 41-39-149;
- (2) The laws of the state or country where it was executed; or
- (3) The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(b) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(c) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

SECTION 20. Section 41-39-139, Mississippi Code of 1972, is reenacted as follows:

41-39-139. **Donor registry.** (a) The Mississippi Department of Public Safety may establish or contract for the establishment of a donor registry.

(b) The Mississippi Department of Public Safety shall cooperate with a person that administers any donor registry that this state establishes, contracts for, or recognizes for the purpose of transferring to the donor registry all relevant

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information regarding a donor's making, amendment to, or revocation of an anatomical gift.

(c) A donor registry must:

(1) Allow a donor or other person authorized under Section 41-39-107 to include on the donor registry a statement or symbol that the donor has made, amended, or revoked an anatomical gift;

(2) Be accessible to a procurement organization to allow it to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift; and

(3) Be accessible for purposes of paragraphs (1) and (2) seven (7) days a week on a twenty-four-hour basis.

(d) Except as otherwise provided in subsection (f), personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

(e) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with the state. Any such registry must comply with subsections (c) and (d).

(f) At the time that a person is renewing his or her driver's license, the Department of Public Safety shall ask the person if he or she would like to be a donor. If the answer is yes, the department shall inform the prospective donor that his or her decision to be a donor cannot be revoked, changed or contested after his or her death by the donor's next of kin or by any other person, and shall ask the person if he or she desires information

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about the person's decision to be a donor to be sent to another person or persons. If the answer is yes, the department shall obtain the name and mailing address of the person or persons designated by the prospective donor, and the donor registry shall send the information about the prospective donor's decision to the designated person or persons as requested.

SECTION 21. Section 41-39-141, Mississippi Code of 1972, is reenacted as follows:

41-39-141. Effect of anatomical gift on advance health care directive. (a) In this section:

(1) "Advance health care directive" means a power of attorney for health care or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health care decision for the prospective donor.

(2) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

(3) "Health care decision" means any decision regarding the health care of the prospective donor.

(b) If a prospective donor has a declaration or advance health care directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive, or, if none or the agent is not reasonably available, another person authorized by law other than Sections 41-39-101 through 41-39-149 to make health care decisions on behalf of the prospective donor, shall act for the donor to

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resolve the conflict. The conflict must be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under Section 41-39-117. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end-of-life care.

SECTION 22. Section 41-39-143, Mississippi Code of 1972, is reenacted as follows:

41-39-143. Notification of medical examiner if deceased patient is subject to medical-legal death investigation. (a) If the deceased patient is medically suitable to be an organ and/or tissue donor, as determined by the procurement organization, and the donor and/or family has authorized the donation and transplantation, the donor's organs and/or tissues shall be removed for the purpose of donation and transplantation by the organ procurement organization, in accordance with subsection (b) of this section.

(b) If the deceased patient is the subject of a medical-legal death investigation, the procurement organization shall immediately notify the appropriate medical examiner that the deceased patient is medically suitable to be an organ and/or tissue donor. If the medical examiner determines that examination, analysis or autopsy of the organs and/or tissue is necessary for the medical examiner's investigation, the medical examiner may be present while the organs and/or tissues are removed for the purpose of transplantation. The physician, surgeon or technician removing the organs and/or tissues shall file with the medical examiner a report detailing the donation, which shall become part of the medical examiner's report. When requested by the medical examiner, the report shall include a

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biopsy or medically approved sample, as specified by the medical examiner, from the donated organs and/or tissues.

(c) In a medical-legal death investigation, decisions about organ and/or tissue donation and transplantation shall be made in accordance with a protocol established and agreed upon by majority vote of procurement organization, a certified state pathologist who shall be appointed by the Mississippi Commissioner of Public Safety, a representative from the University of Mississippi Medical Center, a representative from the Mississippi Coroners Association, an organ recipient who shall be appointed by the Governor, the Director of the Mississippi Bureau of Investigation of the Mississippi Department of Public Safety, and a representative of the Mississippi Prosecutor's Association appointed by the Attorney General. The protocol shall be established so as to maximize the total number of organs and/or tissues available for donation and transplantation. Organs and/or tissues designated by virtue of this protocol shall be recovered. The protocol shall be reviewed and evaluated on an annual basis.

SECTION 23. Section 41-39-145, Mississippi Code of 1972, is reenacted as follows:

41-39-145. **Uniformity of application and construction.** In applying and construing Sections 41-39-101 through 41-39-149, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 24. Section 41-39-147, Mississippi Code of 1972, is reenacted as follows:

41-39-147. **Relation to Electronic Signatures in Global and National Commerce Act.** Sections 41-39-101 through 41-39-149 modify, limit, and supersede the Electronic Signatures in Global and National Commerce Act, 15 USCS Section 7001 et seq., but do not modify, limit or supersede Section 101(a) of that act, 15 USCS Section 7001, or authorize electronic delivery of any of the

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notices described in Section 103(b) of that act, 15 USCS Section 7003(b).

SECTION 25. Section 41-39-149, Mississippi Code of 1972, is amended as follows:

41-39-149. **Repealer.** Sections 41-39-101 through 41-39-147 shall stand repealed on July 1, 2014.

SECTION 26. This act shall take effect, and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2715

Description: Nursing home administrators; extend repealer on licensure requirements for.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (S) Referred To Public Health and Welfare
- 2 03/01 (S) Title Suff Do Pass
- 3 03/07 (S) Passed *(Vote)*
- 4 03/08 (S) Transmitted To House
- 5 03/14 (H) Referred To Public Health and Human Services
- 6 03/22 (H) Title Suff Do Pass
- 7 04/04 (H) Passed *(Vote)*
- 8 04/04 (H) Motion to Reconsider Entered (Myers, Mims, Barker)
- 9 04/05 (H) Motion to Reconsider Tabled
- 10 04/05 (H) Transmitted To Senate
- 11 04/10 (S) Enrolled Bill Signed
- 12 04/11 (H) Enrolled Bill Signed
- 13 04/17 Approved by Governor

Code Section: A 073-0017-0011

----- Additional Information -----

Senate Committee: Public Health and Welfare

House Committee: Public Health and Human Services

Principal Author: Blount

2012 GENERAL LAWS OF MISSISSIPPI, SB 2715

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Blount

To: Public Health and
Welfare

SENATE BILL NO. 2715

AN ACT TO AMEND SECTION 73-17-11, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE REPEALER ON THE LICENSURE REQUIREMENTS FOR NURSING HOME ADMINISTRATORS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-17-11, Mississippi Code of 1972, is amended as follows:

73-17-11. (1) From and after July 1, 2011, in order to be eligible to be licensed as a nursing home administrator, an individual must submit evidence satisfactory to the board that he or she:

(a) Is at least twenty-one (21) years of age;

(b) Is of good moral character, including evidence of a criminal background check within the last six (6) months, under Section 43-11-13 and Section G.407.3 of the Minimum Standards for Institutions for the Aged or Infirm;

(c) Is in good health;

(d) Has satisfied at least one (1) of the following requirements for education and experience:

(i) Has sixty-four (64) hours of college work from an accredited institution and has worked in a supervisory capacity in a Mississippi-licensed nursing home for a minimum of two (2) years immediately before making application for the Administrator-in-Training Program established by board rule;

(ii) Has an associate degree from an accredited institution and has worked in a supervisory capacity in a Mississippi-licensed nursing home for a minimum of two (2) years

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immediately before making application for the

Administrator-in-Training Program established by board rule;

(iii) Has a bachelor's degree in any other field of study from an accredited institution before making application for the Administrator-in-Training Program established by board rule; or

(iv) Has a bachelor's degree in health care administration or a health care related field or business from an accredited institution before making application for the Administrator-in-Training Program established by board rule;

(e) Has (i) completed a nursing home Administrator-in-Training Program and successfully completed the National Association of Long-Term Care Administrator Board (NAB) examination, or (ii) completed an Administrator-in-Training Program in Long-Term Care Administration from an academic institution during which time the institution held National Association of Long-Term Care Administrator Board (NAB) Program Approval through the Academic Approval process, to the satisfaction of the board;

(f) Has successfully passed the National Association of Long-Term Care Administrator Board (NAB) examination and the Mississippi State Board of Nursing Home Administrators examination to test his or her proficiency and basic knowledge in the area of nursing home administration. The board may establish the frequency of the offering of those examinations and the contents thereof; and

(g) Has met all of the requirements established by federal law.

(2) Reciprocity shall be extended to individuals holding licenses as nursing home administrators in other states, upon proper application and a finding on the part of the board that:

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(a) The applicant possesses the basic qualifications listed in this chapter and in the rules and regulations adopted under federal law;

(b) The applicant has met all of the requirements established by federal law; and

(c) The standards for licensure in the other state are at least the substantial equivalent of those in this state, including education and experience, and the applicant has passed both the National Association of Long-Term Care Administrator Board (NAB) and the state exams.

(3) The board may prescribe appropriate fees for the taking of those examinations and for the issuance of licenses. Those fees shall be not more than the cost of the examinations and Five Hundred Dollars (\$500.00) for the issuance of a license. However, the fee for an initial license may be prorated in proportion to the period of time from the date of issuance and the date of biennial license renewal prescribed in subsection (4). All licenses issued under this chapter shall be for a maximum period of two (2) years.

(4) Except as provided in Section 33-1-39, the board may renew licenses biennially upon the payment of a fee to be established by the board, which shall be not more than Five Hundred Dollars (\$500.00), plus any administrative costs for late payment.

(5) Any person who is not licensed under this chapter on July 1, 2011, who makes application with the board on or before June 30, 2012, may qualify for a license under this chapter provided that on or before January 31, 2014, he or she demonstrates to the satisfaction of the board that he or she (a) meets the eligibility requirements for a nursing home administrator's license prescribed in this section as those requirements existed on June 30, 2011; (b) has successfully completed the Administrator-in-Training Program requirements

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existing on June 30, 2011; and (c) has paid all required fees for licensure.

(6) This section shall stand repealed on July 1, 2015.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2812

Description: Environmental Quality; remove the cap on maximum fee for air operating permit under Title V.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: Passage

History of Actions:

- 1 02/20 (S) Referred To Environment Prot, Cons and Water Res
- 2 03/01 (S) Title Suff Do Pass
- 3 03/13 (S) Passed *{Vote}*
- 4 03/14 (S) Transmitted To House
- 5 03/19 (H) Referred To Conservation and Water Resources
- 6 03/22 (H) Title Suff Do Pass
- 7 03/26 (H) Passed *{Vote}*
- 8 03/27 (H) Transmitted To Senate
- 9 03/30 (S) Enrolled Bill Signed
- 10 04/02 (H) Enrolled Bill Signed
- 11 04/05 Approved by Governor

Code Section: A 049-0017-0030

----- Additional Information -----

Senate Committee: Environment Prot, Cons and Water Res

House Committee: Conservation and Water Resources

Principal Author: Gollott

2012 GENERAL LAWS OF MISSISSIPPI, SB 2812

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Gollott

To: Environment Prot, Cons
and Water Res

SENATE BILL NO. 2812

AN ACT TO AMEND SECTION 49-17-30, MISSISSIPPI CODE OF 1972, TO REMOVE THE MAXIMUM ANNUAL FEE LIMITATION FOR AIR OPERATING PERMITS REQUIRED UNDER TITLE V OF THE FEDERAL CLEAN AIR ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 49-17-30, Mississippi Code of 1972, is amended as follows:

49-17-30. (1) As a condition of any air operating permit required under Title V of the federal Clean Air Act, the owner or operator of any stationary source shall pay to the Department of Environmental Quality an annual permit fee. The commission shall establish the amount of each fee to cover the costs of the Title V program as provided in Section 49-17-14.

(2) To facilitate the proper administration of the Title V program, the commission is authorized to assess and collect fees from Title V program permittees. The commission is further authorized to promulgate such rules and regulations as are necessary for the development and administration of the Title V program and the assessment and collection of Title V program fees.

(a) For purposes of fee assessment and collection, the maximum emission rate of each pollutant used in the calculation of fees shall be four thousand (4,000) tons per year per facility.

(b) For purposes of fee assessment and collection, the permit holder shall elect for actual or allowable emissions to be used in determining the annual quantity of emissions unless the commission determines by order that the method chosen by the applicant for calculating actual emissions fails to reasonably represent actual emissions. Such order of the commission shall be

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subject to appeal in the manner provided in Section 49-17-41. Actual emissions shall be calculated using emission monitoring data or direct emissions measurements for the pollutant(s); mass balance calculations such as the amounts of the pollutant(s) entering and leaving process equipment and where mass balance calculations can be supported by direct measurement of process parameters, such direct measurement data shall be supplied; published emission factors such as those relating release quantities to throughput or equipment type (e.g., air emission factors); or other approaches such as engineering calculations (e.g., estimating volatilization using published mathematical formulas) or best engineering judgments where such judgments are derived from process and/or emission data which supports the estimates of maximum actual emissions.

If the commission determines that there is not sufficient information available on a facility's emissions, the determination of the fee shall be based upon the permitted allowable emissions until such time as an adequate determination of actual emissions is made.

(c) A minimum annual fee of Two Hundred Fifty Dollars (\$250.00) shall be assessed to and collected from the owner or operator of each facility that is required to hold a Title V permit. * * *

(3) (a) Prior to the date of full implementation of the Title V program in Mississippi, the fee assessed shall be Four Dollars (\$4.00) per ton of emissions of each air pollutant for which fees can be assessed under the Title V program, not to exceed Fifty Thousand Dollars (\$50,000.00) per facility.

(b) Following the date of full implementation of the Title V program in Mississippi, the fee schedule for Title V permit fees for any subsequent calendar year shall be set by order of the commission in an amount sufficient to cover the reasonable

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costs of development and administration of the Title V program. The commission's order shall follow:

(i) Receipt of the report and recommendations of the Advisory Council; and

(ii) A public hearing to be held not earlier than thirty (30) days following receipt by the commission of the report and recommendations of the Advisory Council. The commission may proceed with entry of the order on fees if the Advisory Council fails to submit its report in a timely manner. The order of the commission may be appealed in the manner set forth in Section 49-17-41. The determination of the fee shall be by order of the commission and shall not be considered the promulgation of a regulation by the commission. The record of the public hearing shall be included in the record upon which the order is based and shall become a part of the appellate records for all appeals taken from the order of the commission establishing or modifying Title V permit fees. Any undisputed amount due from an appellant must be paid according to the appellant's payment schedule during the pendency of the appeal.

(4) Any person required to pay the Title V permit fee set forth under this chapter who disagrees with the calculation or applicability of the person's fee may petition the commission in writing for a hearing in accordance with Section 49-17-35. Such hearing shall be in accordance with Section 49-17-33. Any disputed portion of the fee for which a hearing has been requested will not incur any penalty or interest from and after the receipt by the commission of the hearing petition. The decision of the commission may be appealed in the manner set forth in Section 49-17-41.

(5) All fees collected pursuant to this section shall be deposited into the "Air Operating Permit Program Fee Trust Fund" established in Section 49-17-14.

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SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

Senate Bill 2829

Description: Multi-modal transportation; include regional railroad authorities in Multi-Modal Transportation Improvement Fund.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 02/20 (S) Referred To Highways and Transportation
- 2 03/02 (S) Title Suff Do Pass
- 3 03/08 (S) Passed *(Vote)*
- 4 03/08 (S) Immediate Release
- 5 03/08 (S) Transmitted To House
- 6 03/13 (H) Referred To Transportation
- 7 03/21 (H) Title Suff Do Pass
- 8 03/21 (H) Passed *(Vote)*
- 9 03/22 (H) Transmitted To Senate
- 10 03/26 (S) Enrolled Bill Signed
- 11 03/27 (H) Enrolled Bill Signed
- 12 03/30 Approved by Governor

Code Section: A 065-0001-0701

----- Additional Information -----

Senate Committee: Highways and Transportation

House Committee: Transportation

Principal Author: Gandy

Additional Authors: Watson, Wiggins

2012 GENERAL LAWS OF MISSISSIPPI, SB 2829

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Gandy, Watson, Wiggins

To: Highways and
Transportation

SENATE BILL NO. 2829

AN ACT TO AMEND SECTION 65-1-701, MISSISSIPPI CODE OF 1972, TO AMEND THE DEFINITION OF RAILROAD TO INCLUDE REGIONAL RAILROAD AUTHORITIES FOR THE PURPOSE OF INCLUDING THE AUTHORITIES IN THE MULTI-MODAL TRANSPORTATION IMPROVEMENT FUND; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 65-1-701, Mississippi Code of 1972, is amended as follows:

65-1-701. As used in this article:

(a) "Airport" means a publicly owned airport in Mississippi.

(b) "Fund" means the Multi-Modal Transportation Improvement Fund created in Section 65-1-703.

(c) "MDA" means the Mississippi Development Authority.

(d) "MDOT" means the Mississippi Department of Transportation.

(e) "Modes" means airports, ports, railroads and transit systems.

(f) "Port" means a public port in Mississippi.

(g) "Railroad" means a publicly owned short line railroad in Mississippi and regional railroad authority as defined in 19-29-5.

(h) "Transit system" means a public transit system in Mississippi.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

Senate Bill 2855

Description: Legal signature; conform to Mississippi Uniform Electronic Transactions Act.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 02/20 (S) Referred To Judiciary, Division A
- 2 03/01 (S) Title Suff Do Pass
- 3 03/07 (S) Passed *[Vote]*
- 4 03/08 (S) Transmitted To House
- 5 03/14 (H) Referred To Judiciary A
- 6 03/28 (H) Title Suff Do Pass
- 7 04/04 (H) Passed *[Vote]*
- 8 04/05 (H) Transmitted To Senate
- 9 04/10 (S) Enrolled Bill Signed
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/17 Approved by Governor

Code Section: A 001-0003-0061

----- Additional Information -----

Senate Committee: Judiciary, Division A

House Committee: Judiciary A

Principal Author: Hopson

Additional Authors: Jackson (11th)

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Hopson, Jackson (11th)

To: Judiciary, Division A

SENATE BILL NO. 2855

AN ACT TO AMEND SECTION 1-3-61, MISSISSIPPI CODE OF 1972, TO CONFORM THE DEFINITION OF "WRITTEN" TO THE MISSISSIPPI UNIFORM ELECTRONIC TRANSACTIONS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 1-3-61, Mississippi Code of 1972, is amended as follows:

1-3-61. The term "written," when used in any statute, may include, but is not limited to, printing, engraving, and lithographing. * * * In all cases where the signature of any person is required by law, it shall always be the proper handwriting of such person, or, in case he be unable to write, his proper mark, unless a different form of legal signature is specified in another statute.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature
2012 Regular Session

Senate Bill 2878

Description: Beer; increase the amount of alcohol that it may contain from 5% by weight to 8% by weight.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (S) Referred To Economic Development;Tourism
- 2 02/29 (S) DR - TSDP: EC To TO
- 3 03/01 (S) Title Suff Do Pass
- 4 03/12 (S) Passed *Vote*
- 5 03/13 (S) Transmitted To House
- 6 03/14 (H) Referred To Ways and Means
- 7 03/27 (H) Title Suff Do Pass
- 8 03/27 (H) Passed *Vote*
- 9 03/28 (H) Transmitted To Senate
- 10 03/30 (S) Enrolled Bill Signed
- 11 04/02 (H) Enrolled Bill Signed
- 12 04/05 Approved by Governor

Code Section: A 067-0003-0003, A 067-0001-0005, A 067-0003-0001, A 067-0003-0005, A 067-0003-0007, A 067-0003-0009, A 067-0003-0013, A 067-0003-0017, A 067-0003-0028, A 067-0003-0049, A 067-0003-0053, A 027-0071-0509

----- Additional Information -----

Senate Committee: Economic Development, Tourism

House Committee: Ways and Means

Principal Author: Horhn

Additional Authors: Dawkins, Chassaniol, Moran, Tindell, Brown, Burton, Butler (36th), Butler (38th), Jones, Watson, Wiggins, Jordan, Jackson (11th), Simmons (13th)

2012 GENERAL LAWS OF MISSISSIPPI, SB 2878

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Horhn, Dawkins, Chassaniol,
Moran, Tindell, Brown, Burton, Butler (36th),
Butler (38th), Jones, Watson, Wiggins,
Jordan, Jackson (11th), Simmons (13th)

To: Economic Development;
Tourism

SENATE BILL NO. 2878

AN ACT TO AMEND SECTION 67-3-3, MISSISSIPPI CODE OF 1972, TO INCREASE THE PERMISSIBLE ALCOHOLIC CONTENT OF BEER FROM 5% OF ALCOHOL BY WEIGHT TO 8% OF ALCOHOL BY WEIGHT; TO AMEND SECTIONS 67-1-5, 67-3-1, 67-3-5, 67-3-7, 67-3-9, 67-3-13, 67-3-17, 67-3-28, 67-3-49, 67-3-53 AND 27-71-509, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 67-3-3, Mississippi Code of 1972, is amended as follows:

67-3-3. When used in this chapter, unless the context indicates otherwise:

(a) "Commissioner" means the Commissioner of Revenue of the Department of Revenue of the State of Mississippi, and his authorized agents and employees;

(b) "Person" means one or more persons, a company, a corporation, a partnership, a syndicate or an association;

(c) "Manufacturer" and "retailer" include brewpubs licensed pursuant to Article 3, Chapter 71, Title 27, Mississippi Code of 1972, unless otherwise clearly provided; * * *

(d) "Beer" means a malt beverage as defined in the Federal Alcohol Administration Act and any rules and regulations adopted pursuant to such act of an alcoholic content of not more than eight percent (8%) by weight; and

(e) "Light wine" means wine of an alcoholic content of not more than five percent (5%) by weight.

SECTION 2. Section 67-1-5, Mississippi Code of 1972, is amended as follows:

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67-1-5. For the purposes of this chapter and unless otherwise required by the context:

(a) "Alcoholic beverage" means any alcoholic liquid, including wines of more than five percent (5%) of alcohol by weight, capable of being consumed as a beverage by a human being, but shall not include light wine * * * and * * * beer * * *, as defined in Section 67-3-3, Mississippi Code of 1972, but shall include native wines. The words "alcoholic beverage" shall not include ethyl alcohol manufactured or distilled solely for fuel purposes.

(b) "Alcohol" means the product of distillation of any fermented liquid, whatever the origin thereof, and includes synthetic ethyl alcohol, but does not include denatured alcohol or wood alcohol.

(c) "Distilled spirits" means any beverage containing more than four percent (4%) of alcohol by weight produced by distillation of fermented grain, starch, molasses or sugar, including dilutions and mixtures of these beverages.

(d) "Wine" or "vinous liquor" means any product obtained from the alcoholic fermentation of the juice of sound, ripe grapes, fruits or berries and made in accordance with the revenue laws of the United States.

(e) "Person" means and includes any individual, partnership, corporation, association or other legal entity whatsoever.

(f) "Manufacturer" means any person engaged in manufacturing, distilling, rectifying, blending or bottling any alcoholic beverage.

(g) "Wholesaler" means any person, other than a manufacturer, engaged in distributing or selling any alcoholic beverage at wholesale for delivery within or without this state when such sale is for the purpose of resale by the purchaser.

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(h) "Retailer" means any person who sells, distributes, or offers for sale or distribution, any alcoholic beverage for use or consumption by the purchaser and not for resale.

(i) "State Tax Commission," "commission" or "department" means the Department of Revenue of the State of Mississippi, which shall create a division in its organization to be known as the Alcoholic Beverage Control Division. Any reference to the commission or the department hereafter means the powers and duties of the Department of Revenue with reference to supervision of the Alcoholic Beverage Control Division.

(j) "Division" means the Alcoholic Beverage Control Division of the Department of Revenue.

(k) "Municipality" means any incorporated city or town of this state.

(l) "Hotel" means an establishment within a municipality, or within a qualified resort area approved as such by the department, where, in consideration of payment, food and lodging are habitually furnished to travelers and wherein are located at least twenty (20) adequately furnished and completely separate sleeping rooms with adequate facilities that persons usually apply for and receive as overnight accommodations. Hotels in towns or cities of more than twenty-five thousand (25,000) population are similarly defined except that they must have fifty (50) or more sleeping rooms. Any such establishment described in this paragraph with less than fifty (50) beds shall operate one or more regular dining rooms designed to be constantly frequented by customers each day. When used in this chapter, the word "hotel" shall also be construed to include any establishment that meets the definition of "bed and breakfast inn" as provided in this section.

(m) "Restaurant" means a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation, which has suitable seating facilities

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for guests, and which has suitable kitchen facilities connected therewith for cooking an assortment of foods and meals commonly ordered at various hours of the day; the service of such food as sandwiches and salads only shall not be deemed in compliance with this requirement. No place shall qualify as a restaurant under this chapter unless twenty-five percent (25%) or more of the revenue derived from such place shall be from the preparation, cooking and serving of meals and not from the sale of beverages, or unless the value of food given to and consumed by customers is equal to twenty-five percent (25%) or more of total revenue.

(n) "Club" means an association or a corporation:

(i) Organized or created under the laws of this state for a period of five (5) years prior to July 1, 1966;

(ii) Organized not primarily for pecuniary profit but for the promotion of some common object other than the sale or consumption of alcoholic beverages;

(iii) Maintained by its members through the payment of annual dues;

(iv) Owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests;

(v) The affairs and management of which are conducted by a board of directors, board of governors, executive committee, or similar governing body chosen by the members at a regular meeting held at some periodic interval; and

(vi) No member, officer, agent or employee of which is paid, or directly or indirectly receives, in the form of a salary or other compensation any profit from the distribution or sale of alcoholic beverages to the club or to members or guests of the club beyond such salary or compensation as may be fixed and voted at a proper meeting by the board of directors or other governing body out of the general revenues of the club.

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The department may, in its discretion, waive the five-year provision of this paragraph. In order to qualify under this paragraph, a club must file with the department, at the time of its application for a license under this chapter, two (2) copies of a list of the names and residences of its members and similarly file, within ten (10) days after the election of any additional member, his name and address. Each club applying for a license shall also file with the department at the time of the application a copy of its articles of association, charter of incorporation, bylaws or other instruments governing the business and affairs thereof.

(o) "Qualified resort area" means any area or locality outside of the limits of incorporated municipalities in this state commonly known and accepted as a place which regularly and customarily attracts tourists, vacationists and other transients because of its historical, scenic or recreational facilities or attractions, or because of other attributes which regularly and customarily appeal to and attract tourists, vacationists and other transients in substantial numbers; however, no area or locality shall so qualify as a resort area until it has been duly and properly approved as such by the department.

(i) The department may approve an area or locality outside of the limits of an incorporated municipality that is in the process of being developed as a qualified resort area if such area or locality, when developed, can reasonably be expected to meet the requisites of the definition of the term "qualified resort area." In such a case, the status of qualified resort area shall not take effect until completion of the development.

(ii) The term includes any state park which is declared a resort area by the department; however, such declaration may only be initiated in a written request for resort area status made to the department by the Executive Director of the Department of Wildlife, Fisheries and Parks, and no permit for

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the sale of any alcoholic beverage, as defined in this chapter, except an on-premises retailer's permit, shall be issued for a hotel, restaurant or bed and breakfast inn in such park.

(iii) The term includes:

1. The clubhouses associated with the state park golf courses at the Lefleur's Bluff State Park, the John Kyle State Park, the Percy Quin State Park and the Hugh White State Park;

2. The clubhouse and associated golf course where the golf course is adjacent to one or more planned residential developments and the golf course and all such developments collectively include at least seven hundred fifty (750) acres and at least four hundred (400) residential units;

3. Any facility located on property that is a game reserve with restricted access that consists of at least three thousand (3,000) contiguous acres with no public roads and that offers as a service hunts for a fee to overnight guests of the facility;

4. Any facility located on federal property surrounding a lake and designated as a recreational area by the United States Army Corps of Engineers that consists of at least one thousand five hundred (1,500) acres;

5. Any facility that is located in a municipality that is bordered by the Pearl River, traversed by Mississippi Highway 25, adjacent to the boundaries of the Jackson International Airport and is located in a county which has voted against coming out from under the dry law; however, any such facility may only be located in areas designated by the governing authorities of such municipality;

6. Any municipality with a population in excess of ten thousand (10,000) according to the latest federal decennial census that is located in a county that is bordered by the Pearl River and is not traversed by Interstate Highway 20,

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with a population in excess of forty-five thousand (45,000) according to the latest federal decennial census;

7. The West Pearl Restaurant Tax District as defined in Chapter 912, Local and Private Laws of 2007.

The status of these municipalities, districts, clubhouses, facilities and golf courses described in subparagraph (iii) of this paragraph (o) as qualified resort areas does not require any declaration of same by the department.

(p) "Native wine" means any product, produced in Mississippi for sale, having an alcohol content not to exceed twenty-one percent (21%) by weight and made in accordance with revenue laws of the United States, which shall be obtained primarily from the alcoholic fermentation of the juice of ripe grapes, fruits, berries or vegetables grown and produced in Mississippi; provided that bulk, concentrated or fortified wines used for blending may be produced without this state and used in producing native wines. The department shall adopt and promulgate rules and regulations to permit a producer to import such bulk and/or fortified wines into this state for use in blending with native wines without payment of any excise tax that would otherwise accrue thereon.

(q) "Native winery" means any place or establishment within the State of Mississippi where native wine is produced in whole or in part for sale.

(r) "Bed and breakfast inn" means an establishment within a municipality where in consideration of payment, breakfast and lodging are habitually furnished to travelers and wherein are located not less than eight (8) and not more than nineteen (19) adequately furnished and completely separate sleeping rooms with adequate facilities, that persons usually apply for and receive as overnight accommodations; however, such restriction on the minimum number of sleeping rooms shall not apply to establishments on the National Register of Historic Places. No place shall qualify as a

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bed and breakfast inn under this chapter unless on the date of the initial application for a license under this chapter more than fifty percent (50%) of the sleeping rooms are located in a structure formerly used as a residence.

(s) "Board" shall refer to the Board of Tax Appeals of the State of Mississippi.

(t) "Spa facility" means an establishment within a municipality or qualified resort area and owned by a hotel where, in consideration of payment, patrons receive from licensed professionals a variety of private personal care treatments such as massages, facials, waxes, exfoliation and hairstyling.

(u) "Art studio or gallery" means an establishment within a municipality or qualified resort area that is in the sole business of allowing patrons to view and/or purchase paintings and other creative artwork.

(v) "Cooking school" means an establishment within a municipality or qualified resort area and owned by a nationally recognized company that offers an established culinary education curriculum and program where, in consideration of payment, patrons are given scheduled professional group instruction on culinary techniques. For purposes of this paragraph, the definition of cooking school shall not include schools or classes offered by grocery stores, convenience stores or drugstores.

SECTION 3. Section 67-3-1, Mississippi Code of 1972, is amended as follows:

67-3-1. The purpose of this chapter is to legalize the manufacture and sale within this state of light wines and beer * * *, and to regulate the business of manufacturing and of selling light wines and beer so as to prevent the illicit manufacture, sale and consumption of alcoholic beverages as defined in Section 67-1-5, the manufacture and sale of which it is not the purpose of this chapter to legalize.

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SECTION 4. Section 67-3-5, Mississippi Code of 1972, is amended as follows:

67-3-5. It shall be lawful, subject to the provisions set forth in this chapter, in this state to transport, store, sell, distribute, possess, receive and/or manufacture wine and beer * * *, and it is hereby declared that it is the legislative intent that this chapter privileges the lawful sale and manufacture, within this state, of such light wines and beer. In determining if a wine product is "light wine," or contains an alcoholic content of more than five percent (5%) by weight, or is not an "alcoholic beverage" as defined in the Local Option Alcoholic Beverage Control Law, Chapter 1 of Title 67, Mississippi Code of 1972, the alcoholic content of such wine product shall be subject to the same permitted tolerance as is allowed by the labeling requirements for light wine provided for in Section 27-71-509.

SECTION 5. Section 67-3-7, Mississippi Code of 1972, is amended as follows:

67-3-7. (1) If any county, at an election held for the purpose under the election laws of the state, shall by a majority vote of the duly qualified electors voting in the election determine that the transportation, storage, sale, distribution, receipt and/or manufacture of wine and beer * * * shall not be permitted in such county, then the same shall not be permitted therein except as authorized under Section 67-9-1 and as may be otherwise authorized in this section. An election to determine whether such transportation, storage, sale, distribution, receipt and/or manufacture of such beverages shall be excluded from any county in the state, shall, on a petition of twenty percent (20%) of the duly qualified electors of such county, be ordered by the board of supervisors of the county, for such county only. No election on the question shall be held in any one county more often than once in five (5) years.

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In counties which have elected, or may elect by a majority vote of the duly qualified electors voting in the election, that the transportation, storage, sale, distribution, receipt and/or manufacture of wine or beer * * * shall not be permitted in the county, an election may be held in the same manner as the election hereinabove provided on the question of whether or not the transportation, storage, sale, distribution, receipt and/or manufacture of said beverages shall be permitted in such county. Such election shall be ordered by the board of supervisors of such county on a petition of twenty percent (20%) of the duly qualified electors of such county. No election on this question can be ordered more often than once in five (5) years.

(2) Nothing in this section shall make it unlawful to possess beer or wine, as defined herein, in any municipality which has heretofore or which may hereafter vote in an election, pursuant to Section 67-3-9, in which a majority of the qualified electors vote in favor of permitting the sale and the receipt, storage and transportation for the purpose of sale of beer or wine as defined herein.

(3) Nothing in this section shall make it unlawful to:

(a) Possess or consume light wine or beer at a qualified resort area as defined in Section 67-1-5;

(b) Sell, distribute and transport light wine or beer to a qualified resort area as defined in Section 67-1-5;

(c) Sell light wine or beer at a qualified resort area as defined in Section 67-1-5 if such light wine or beer is sold by a person with a permit to engage in the business as a retailer of light wine or beer.

SECTION 6. Section 67-3-9, Mississippi Code of 1972, is amended as follows:

67-3-9. Any city in this state, having a population of not less than two thousand five hundred (2,500) according to the latest federal census, at an election held for the purpose, under

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the election laws applicable to such city, may either prohibit or permit, except as otherwise provided under Section 67-9-1, the sale and the receipt, storage and transportation for the purpose of sale of beer and light wine * * *. An election to determine whether such sale shall be permitted in cities wherein its sale is prohibited by law shall be ordered by the city council or mayor and board of aldermen or other governing body of such city for such city only, upon the presentation of a petition for such city to such governing board containing the names of twenty percent (20%) of the duly qualified voters of such city asking for such election. In like manner, an election to determine whether such sale shall be prohibited in cities wherein its sale is permitted by law shall be ordered by the city council or mayor and board of aldermen or other governing board of such city for such city only, upon the presentation of a petition to such governing board containing the names of twenty percent (20%) of the duly qualified voters of such city asking for such election. No election on either question shall be held by any one (1) city more often than once in five (5) years.

Thirty (30) days' notice shall be given to the qualified electors of such city in the manner prescribed by law upon the question of either permitting or prohibiting such sale, and the notice shall contain a statement of the question to be voted on at the election. The tickets to be used in the election shall have the following words printed thereon: "For the legal sale of light wine of an alcoholic content of not more than five percent (5%) by weight and beer of an alcoholic content of not more than eight percent (8%) by weight"; and the words "Against the legal sale of light wine of an alcoholic content of not more than five percent (5%) by weight and beer of an alcoholic content of not more than eight percent (8%) by weight," next below. In making up his ticket the voter shall make a cross (X) opposite the words of his choice.

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If in the election a majority of the qualified electors voting in the election shall vote "For the legal sale of light wine of an alcoholic content of not more than five percent (5%) by weight and beer of an alcoholic content of not more than eight percent (8%) by weight," then the city council or mayor and board of aldermen or other governing body shall pass the necessary order permitting the legal sale of such light wine and beer in such city. If in the election a majority of the qualified electors voting in the election shall vote "Against the legal sale of light wine of an alcoholic content of not more than five percent (5%) by weight and beer of an alcoholic content of not more than eight percent (8%) by weight," then the city council or mayor and board of aldermen or other governing body shall pass the necessary order prohibiting the sale of such light wine and beer in such city.

All laws or parts of laws in conflict with this section are hereby repealed to the extent of such conflict only, this section being cumulative and supplementary.

SECTION 7. Section 67-3-13, Mississippi Code of 1972, is amended as follows:

67-3-13. (1) Except as otherwise provided herein and as authorized under this section and Section 67-9-1, in any county which has at any time since February 26, 1934, elected, or which may hereafter elect, to prohibit the transportation, storage, sale, distribution, receipt and/or manufacture of wine and beer of an alcoholic content of not more than four percent (4%) by weight in such county, it is hereby declared to be unlawful to possess such beverages therein. In any county which, after July 1, 1998, elects to prohibit the transportation, storage, sale, distribution, receipt and/or manufacture of wine and beer of an alcoholic content of not more than five percent (5%) by weight in such county, it is hereby declared to be unlawful to possess such beer therein. In any county which, after July 1, 2012, elects to prohibit the transportation, storage, sale, distribution, receipt

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and/or manufacture of wine of an alcoholic content of not more than five percent (5%) by weight in such county and beer of an alcoholic content of not more than eight percent (8%) by weight, it is hereby declared to be unlawful to possess such beer therein.

Any person found possessing any beer or wine of any quantity whatsoever in such county shall, on conviction, be imprisoned not more than ninety (90) days or fined not more than Five Hundred Dollars (\$500.00), or be both so fined and imprisoned.

(2) Notwithstanding the provisions of subsection (1) of this section, in any county or municipality in which the transportation, storage, sale, distribution, receipt and/or manufacture of light wine and beer is prohibited, it shall not be unlawful for a permitted wholesaler or distributor to possess light wine and beer when such light wine and beer is held therein solely for the purpose of storage and for distribution to other counties and municipalities in which possession of such beverages is lawful.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, in any county in which transportation, storage, sale, distribution, receipt and/or manufacture of light wine and beer is prohibited, it shall not be unlawful:

(a) To receive, store, possess or consume light wine or beer at a resort area as defined in Section 67-1-5;

(b) To distribute and transport light wine or beer to a resort area as defined in Section 67-1-5.

SECTION 8. Section 67-3-17, Mississippi Code of 1972, is amended as follows:

67-3-17. Any person desiring to engage in any business taxable under Sections 27-71-303 through 27-71-317, Mississippi Code of 1972, either as a retailer, or as a wholesaler or distributor, or as a manufacturer, of light wines or beer, shall file with the commissioner an application for a permit allowing him to engage in such business. The application for a permit

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shall be filed on a blank to be furnished by the commissioner for that purpose, and shall contain a statement showing the name of the business, and if a partnership, firm or association, the name of each partner or member, and if a corporation the names of two (2) principal officers, the post office address, and the nature of business in which engaged. In case any business is conducted at two (2) or more separate places, a separate permit for each place of business shall be required.

The applicant, at the time of filing such application for a permit or license to engage in such business, shall also file with the commissioner an oath, duly subscribed and sworn to by him before an officer authorized to administer oaths, that he will not allow any alcoholic beverages as defined in Section 67-1-5, * * * any beer having an alcoholic content of more than eight percent (8%) by weight or any wine, having an alcoholic content of more than five percent (5%) by weight, to be kept, stored or secreted in or on the premises described in such permit or license, and that the applicant will not otherwise violate any law of this state, or knowingly allow any other person to violate any such law, while in or on such premises.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

SECTION 9. Section 67-3-28, Mississippi Code of 1972, is amended as follows:

67-3-28. (1) Any person desiring to engage in business as a brewpub shall file with the commissioner, along with the application required by Section 67-3-17, Mississippi Code of 1972, a certificate issued by a licensed testing laboratory indicating that such laboratory has tested a sample of the applicant's beer or light wine, or both, and that the alcohol content of such sample of beer does not exceed eight percent (8%) by weight and

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the alcoholic content of such light wine does not exceed five percent (5%) by weight.

(2) Every brewpub shall be required to submit to random testing by the commissioner to determine whether any beer * * * being manufactured, sold, kept, stored or secreted by the license holder contains an alcohol content greater than eight percent (8%) by weight and any light wine being manufactured, sold, kept, stored or secreted by the license holder contains an alcoholic content greater than five percent (5%) by weight. The commissioner shall establish and administer testing standards and procedures to be used in such random testing. The brewpub licensee shall be responsible for all costs incurred by the commissioner in conducting random testing under this section.

SECTION 10. Section 67-3-49, Mississippi Code of 1972, is amended as follows:

67-3-49. It shall be unlawful for any brewer or manufacturer or distributor or wholesale dealer of or in light wines and/or beer to manufacture or knowingly bring upon his premises or keep thereon any * * * wine of an alcoholic content of more than five percent (5%) by weight and beer of an alcoholic content of not more than eight percent (8%) by weight, or any distilled spirits of any alcoholic content whatsoever. Any person that shall add to or mix with any beer or light wine any alcoholic or other liquid, or any alcohol cube or cubes, or any other ingredient or ingredients that will increase or tend to increase the alcoholic content of such liquor, or any person that shall knowingly offer for sale any liquor so treated, shall be guilty of a misdemeanor and punished as hereinafter provided in this chapter. The commissioner shall take any action he considers necessary to ensure that light wine and/or beer manufactured at a brewpub complies with the provisions of this section.

SECTION 11. Section 67-3-53, Mississippi Code of 1972, is amended as follows:

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67-3-53. In addition to any act declared to be unlawful by this chapter, or by Sections 27-71-301 through 27-71-347, and Sections 67-3-17, 67-3-27, 67-3-29 and 67-3-57, it shall be unlawful for the holder of a permit authorizing the sale of beer or light wine at retail or for the employee of the holder of such a permit:

(a) To sell or give to be consumed in or upon any licensed premises any beer or light wine between the hours of midnight and seven o'clock the following morning or during any time the licensed premises may be required to be closed by municipal ordinance or order of the board of supervisors; however, in areas where the sale of alcoholic beverages is legal under the provisions of the Local Option Alcoholic Beverage Control Law and the hours for selling those alcoholic beverages have been extended beyond midnight for on-premises permittees under Section 67-1-37, the hours for selling beer or light wines are likewise extended in areas where the sale of beer and light wines is legal in accordance with the provisions of this chapter.

(b) To sell, give or furnish any beer or light wine to any person visibly or noticeably intoxicated, or to any habitual drunkard, or to any person under the age of twenty-one (21) years.

(c) To permit in the premises any lewd, immoral or improper entertainment, conduct or practices.

(d) To permit loud, boisterous or disorderly conduct of any kind upon the premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community in which the business is located.

(e) To permit persons of ill repute, known criminals, prostitutes or minors to frequent the licensed premises, except minors accompanied by parents or guardians, or under proper supervision.

(f) To permit or suffer illegal gambling or the operation of illegal games of chance upon the licensed premises.

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(g) To receive, possess or sell on the licensed premises any beverage of any kind or character containing more than five percent (5%) of alcohol by weight except any beer containing not more than eight percent (8%) of alcohol by weight, unless the licensee also possesses an on-premises permit under the Local Option Alcoholic Beverage Control Law.

SECTION 12. Section 27-71-509, Mississippi Code of 1972, is amended as follows:

27-71-509. It shall be unlawful for any brewer, manufacturer, distributor or retailer of light wines and beer, or either of them, to whom a permit has been issued under the provisions of Sections 67-3-15 and 67-3-23, Mississippi Code of 1972, to write or print on any label or container of either of the above named commodities any matter relating to the alcoholic content of such beverage or beverages, except a statement, to the effect that the contents of the vessel or container in which light wine shall be sold does not contain alcohol in excess of five percent (5%) of the contents thereof, by weight, and that the contents of the vessel or container in which beer shall be sold does not contain alcohol in excess of eight percent (8%) of the contents thereof, by weight. It shall be unlawful for any such brewer, wholesaler, distributor or retailer to sell any such commodity with any statement in conflict with the provisions of this section, with reference to the alcoholic content of such beverage or beverages, except that a statement of alcoholic content may be expressed on any light wine or beer label in terms of volume or weight, at the manufacturer's option; and such statement, if by volume, shall be subject to the same permitted tolerance allowed for wine containing fourteen percent (14%) alcohol by volume or less by Section 4.36(b)(1) of the Federal Labeling Requirements for Wine, 27 CFR Part 4, subpart D, and Section 7.71(c) 27 CFR Part 7, subpart G, and, if by weight, shall

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be subject to an equivalent permitted tolerance, determined in terms of alcohol by weight.

SECTION 13. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2884

Description: County board of supervisors; reduce notice required to call emergency meetings.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (S) Referred To County Affairs
- 2 02/29 (S) Title Suff Do Pass Comm Sub
- 3 03/07 (S) Committee Substitute Adopted
- 4 03/07 (S) Passed *Vote*
- 5 03/08 (S) Transmitted To House
- 6 03/14 (H) Referred To County Affairs
- 7 03/27 (H) Title Suff Do Pass
- 8 04/04 (H) Passed *Vote*
- 9 04/05 (H) Transmitted To Senate
- 10 04/10 (S) Enrolled Bill Signed
- 11 04/11 (H) Enrolled Bill Signed
- 12 04/17 Approved by Governor

Code Section: A 019-0003-0019

----- Additional Information -----

Senate Committee: County Affairs

House Committee: County Affairs

Principal Author: Browning

Additional Authors: Massey, Jackson (11th)

2012 GENERAL LAWS OF MISSISSIPPI, SB 2884

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Browning, Massey, Jackson
(11th)

To: County Affairs

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2884

AN ACT TO AMEND SECTION 19-3-19, MISSISSIPPI CODE OF 1972, TO REVISE HOW A BOARD OF SUPERVISORS MAY CALL AN EMERGENCY MEETING; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 19-3-19, Mississippi Code of 1972, is amended as follows:

19-3-19. (1) The board of supervisors may, at a regular meeting, by an order on its minutes, adjourn to meet at any time it may determine upon.

(2) The president, or the vice president in the absence or disability of the president, or any three (3) members of the board, may call special meetings when deemed necessary. Notice shall be given of all special meetings, for at least five (5) days, by advertisement posted at the courthouse door, or published in a newspaper of the county, and the notice thereof, whether posted or published in a newspaper, shall be entered in full on the minutes of said meeting. * * * The notice of a special meeting, shall specify each matter of business to be transacted thereat, and at such * * * special meetings business shall not be transacted which is not specified in the order or notice for such meeting.

(3) The president, or the vice president in the absence or disability of the president, or any two (2) members of the board, may by written notice, call an emergency meeting of the board of supervisors in cases of an emergency arising as a result of serious damage to county property, or to roads or bridges, or emergencies arising as a result of epidemic conditions or weather

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conditions. The notice shall state the time of the meeting and distinctly specify the subject matters of business to be acted upon and be signed before a notary by the officer or officers calling the meeting. At least three (3) hours before the time fixed for the meeting, notice shall be personally delivered to the members of the board who have not signed it and who can be found. The notice shall also be posted at the courthouse door at least three (3) hours before the time fixed for the meeting. If a member of the board cannot be found to complete the personal delivery of the notice, the president, vice president or any one of the two (2) members of the board calling an emergency meeting shall make every attempt, within the applicable notice period, to contact the board member that was not personally found by other available means, including, but not limited to, telephone or e-mail. The method of notice used to call the meeting shall be entered on the minutes of the emergency meeting, and business not specified in the notice shall not be transacted at the meeting.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session
Senate Bill 2886

Description: Counties and municipalities; revise procedures for public budget hearings and revise public notice form.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2012

History of Actions:

- 1 02/20 (S) Referred To County Affairs;Accountability, Efficiency, Transparency
- 2 02/29 (S) DR - TSDPCS: CA To AC
- 3 03/01 (S) DR - TSDPCS: AC To CA
- 4 03/05 (S) Title Suff Do Pass Comm Sub
- 5 03/08 (S) Committee Substitute Adopted
- 6 03/08 (S) Passed (Vote)
- 7 03/08 (S) Motion to Reconsider Entered
- 8 03/16 (S) Motion to Recnsdr Tabled Lost
- 9 03/16 (S) Reconsidered
- 10 03/16 (S) Amended
- 11 03/16 (S) Passed As Amended (Vote)
- 12 03/20 (S) Transmitted To House
- 13 03/21 (H) Referred To County Affairs;S.C. Accountblty/Efficiency/Transparency
- 14 03/27 (H) DR - TSDP: CA To AC
- 15 03/28 (H) DR - TSDP: AC To CA
- 16 03/28 (H) Title Suff Do Pass
- 17 04/04 (H) Passed (Vote)
- 18 04/05 (H) Transmitted To Senate
- 19 04/10 (S) Enrolled Bill Signed
- 20 04/10 (H) Enrolled Bill Signed
- 21 04/16 Approved by Governor

Amendments:

  [S] Amendment No 1 (Cmte Sub) **Lost** (Vote)

Code Section: A 027-0039-0203, A 021-0033-0045, A 027-0039-0317, RP 027-0039-0205

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----- Additional Information -----

Senate Committee: County Affairs, Accountability, Efficiency, Transparency

House Committee: County Affairs, S.C. Accountblty/Efficiency/Transparency

Principal Author: Browning

Additional Authors: Lee, Hill, Jackson (11th)

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MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Browning, Lee, Hill, Jackson
(11th)

To: County Affairs;
Accountability, Efficiency,
Transparency

SENATE BILL NO. 2886 (As Passed the Senate)

AN ACT TO AMEND SECTION 27-39-203, MISSISSIPPI CODE OF 1972, TO REVISE THE PROCEDURES REQUIRED FOR TAXING ENTITIES TO HOLD BUDGET HEARINGS; TO REVISE THE FORM AND CONTENT OF THE REQUIRED PUBLIC NOTICES FOR SUCH HEARINGS; TO AMEND SECTIONS 21-33-45 AND 27-39-317, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; TO REPEAL SECTION 27-39-205, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE PROCEDURES TO INCREASE CERTAIN CERTIFIED TAX RATES AND THE FORM AND CONTENT OF THE PUBLIC NOTICE REQUIRED FOR SUCH INCREASES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-39-203, Mississippi Code of 1972, is amended as follows:

27-39-203. (1) The governing body of all taxing entities shall hold a public hearing at which time the budget and tax levies for the upcoming fiscal year will be considered.

(2) The public hearing shall be advertised in accordance with the following procedures. The advertisement shall be no less than one-fourth (1/4) page in size and the type used shall be no smaller than eighteen (18) point and surrounded by a one-fourth-inch solid black border. The advertisement may not be placed in that portion of the newspaper where legal notices and classified advertisements appear. It is the intent of the Legislature that the advertisement appears in a newspaper that is published at least five (5) days a week, unless the only newspaper in the county is published less than five (5) days a week. It is further the intent of the Legislature that the newspaper selected be one of general interest and readership in the community, and not one of limited subject matter. The advertisement shall be run once each week for the two (2) weeks preceding the adoption of the final budget. The advertisement shall state that the taxing

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entity will meet on a certain day, time and place fixed in the advertisement, which shall be not less than seven (7) days after the day the first advertisement is published, for the purpose of hearing comments regarding the proposed budget and proposed tax levies. Any increase in the projected budget revenues or any increase in the millage rate over the current fiscal year shall be explained by the governing body giving the reasons for the proposed increase. A taxing entity collecting taxes in more than one (1) county shall make the required advertisement by publication in each county where the taxing entity collects taxes.

(3) All hearings shall be open to the public. The governing body of the taxing entity shall permit all interested parties desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(4) Each taxing entity shall notify the county or municipal governing body of the date, time and place of its public hearing. No taxing entity may schedule its hearing at the same time as another overlapping taxing entity in the same county, but all taxing entities in which the power to set tax levies is vested in the same governing authority may consolidate the required hearings into one (1) hearing. The county or municipal governing body shall resolve any conflicts in hearing dates and times after consultation with each affected taxing entity.

(5) If the proposed tax levies are not in excess of the current fiscal year's certified tax rate, the advertisement shall be in the following form:

"NOTICE OF A PUBLIC HEARING ON THE PROPOSED BUDGET AND PROPOSED TAX LEVIES FOR THE UPCOMING FISCAL YEAR FOR -- (Name of the taxing entity)

The (name of the taxing entity) will hold a public hearing on its proposed budget and proposed tax levies for fiscal year (insert the year) on (date and time) at (meeting place). * * *

The (name of the taxing entity) is now operating with

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projected total budget revenue of \$_____. (____ percent) or \$_____ of such revenue is obtained through ad valorem taxes. For the next fiscal year, the proposed budget has total projected revenue of \$_____. Of that amount, (____ percent) or \$_____, is proposed to be financed through a total ad valorem tax levy.

★ ★ ★

The decision to not increase the ad valorem tax millage rate for fiscal year (insert the year) above the current fiscal year's ad valorem tax millage rate means you will not pay more in ad valorem taxes on your home, automobile tag, utilities, business fixtures and equipment and rental real property, unless the assessed value of your property has increased for fiscal year (insert the year).

Any citizen of (name of the taxing entity) is invited to attend this public hearing on the proposed budget and tax levies for fiscal year (insert the year) and will be allowed to speak for a reasonable amount of time and offer tangible evidence before any vote is taken."

(6) (a) If the proposed tax levies for the upcoming fiscal year shall exceed the current fiscal year's certified tax rate, the advertisement shall be in the following form:

"NOTICE OF A TAX INCREASE AND A PUBLIC HEARING ON THE PROPOSED BUDGET AND PROPOSED TAX LEVIES FOR -- (Name of the taxing entity)

The (name of the taxing entity) will hold a public hearing on a proposed ad valorem tax revenue increase for fiscal year (insert the year) and on its proposed budget and proposed tax levies for fiscal year (insert the year) on (date and time) at (meeting place).

The (name of the taxing entity) is now operating with projected total budget revenue of \$_____. (____ percent) or \$_____ of such revenue is obtained through ad valorem taxes. For next fiscal year, the proposed budget has total projected

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revenue of \$_____. Of that amount, (____ percent) or \$_____ is proposed to be financed through a total ad valorem tax levy.

For next fiscal year, the (name of the taxing entity) plans to increase your ad valorem tax millage rate by _____ mills from _____ mills to _____ mills. This increase means that you will pay more in ad valorem taxes on your home, automobile tag, utilities, business fixtures and equipment and rental real property.

Any citizen of (name of the taxing entity) is invited to attend this public hearing on the proposed ad valorem tax increase, and will be allowed to speak for a reasonable amount of time and offer tangible evidence before any vote is taken."

(b) If an increase in the tax levy is necessary only because of an increased funding request made by a county district or any other cost which by law the county must fund and may not decrease in amount, then the notice required by this subsection shall be used and the county shall explain, in clear language in the notice, that the increase in the tax levy is necessary only because of the increased funding request of the county district or other cost incurred.

(7) After the hearing has been held in accordance with the above procedures, the governing body of the taxing entity may adopt a resolution levying a tax rate on classes of property designated by Section 112, Mississippi Constitution of 1890, as specified in its advertisement. If the resolution adopting the tax rate is not adopted on the day of the public hearing, the scheduled date, time and place for consideration and adoption of the resolution shall be announced at the public hearing and the governing body shall advertise the date, time and place of the proposed adoption of the resolution in the same manner as provided under subsection (2).

(8) Any governing body of a tax entity shall be prohibited from expending any funds for the applicable fiscal year until it

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has strictly complied with the advertisement and public hearing requirements set forth in this section.

SECTION 2. Section 21-33-45, Mississippi Code of 1972, is amended as follows:

21-33-45. The governing authorities of each municipality of this state shall, either at their regular meeting in September of each year or not later than ten (10) days after the final approval of the assessment rolls, levy the municipal ad valorem taxes for the fiscal year next succeeding, and shall, by resolution, fix the tax rate or levy for the municipality and for any other taxing districts of which the municipality may be a part. The rates or levies for the municipality or for any such taxing district shall be expressed in mills or a decimal fraction of a mill, which tax rates, or levies, shall determine the ad valorem taxes to be collected upon each dollar of valuation upon the assessment rolls of the municipality for municipal taxes, and to be collected upon each dollar of valuation as shown upon the assessment rolls of the municipality for each such taxing district, except as to such values as may be exempt, in whole or in part, from certain tax rates or levies. If the rates or levies for the municipality or taxing district are an increase from the previous fiscal year, then the proposed rate or levy increase shall be advertised in accordance with Section 27-39-203 * * *.

In making the levy of taxes, the governing authorities shall specify in such resolution the levy for each purpose as follows:

(a) For general revenue purposes and for general improvements, as authorized by Section 27-39-307.

(b) For school purposes, including all maintenance levies, whether made against the property within such municipality, or within any taxing district embraced in such municipality, as authorized by Section 27-39-307 and Section 37-57-3 et seq.

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(c) For municipal bonds and interest thereon, for school bonds and interest thereon, separately for municipal-wide bonds and for the bonds of each school district.

(d) For municipal-wide bonds and interest thereon, other than for school bonds.

(e) For loans, notes or any other obligation, and the interest thereon, if permitted by law.

(f) For special improvement or special benefit levies, as now authorized by law.

(g) For any other purpose for which a levy is lawfully made. If any municipal-wide levy is made for any general or special purpose under the provisions of any law other than Section 27-39-307 each such levy shall be separately stated in the resolution, and the law authorizing same shall be expressly stated therein.

If the governing authorities of any municipality shall not levy the municipal taxes and the district taxes at its regular September meeting, such governing authorities shall levy the same at an adjourned or special meeting not later than ten (10) days after the final approval of the assessment rolls. However, that if such levy be not made on or before September 15 then road and bridge privilege tax license plates may be issued by the tax collector or Department of Revenue, as the case may be, for motor vehicles as defined in the Motor Vehicle Ad Valorem Tax Law of 1958 (Section 27-51-1 et seq.), without collecting or requiring proof of payment of municipal ad valorem taxes until such levy is duly certified to him, and for twenty-four (24) hours thereafter.

In the case of a municipality operating under a special or private charter providing for or authorizing the assessment, levying and collection of ad valorem taxes prior to October in each year, ad valorem taxes for such municipality shall be levied at the time prescribed or authorized by such special or private charter, unless the governing authority of such municipality by

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resolution adopted and spread of record in its minutes elect to levy ad valorem taxes at the time prescribed hereinbefore in this section. In any event, however, all ad valorem taxes levied by any municipality in this state, shall be levied in the manner required herein regardless of the time when such taxes are levied.

SECTION 3. Section 27-39-317, Mississippi Code of 1972, is amended as follows:

27-39-317. The board of supervisors of each county shall, at its regular meeting in September of each year, levy the county ad valorem taxes for the fiscal year, and shall, by order, fix the tax rate, or levy, for the county, for the road districts, if any, and for the school districts, if any, and for any other taxing districts; and the rates, or levies, for the county and for any district shall be expressed in mills or a decimal fraction of a mill. Said tax rates, or levies, shall determine the ad valorem taxes to be collected upon each dollar of valuation, upon the assessment rolls of the county, including the assessment of motor vehicles as provided by the Motor Vehicle Ad Valorem Tax Law of 1958, Section 27-51-1 et seq., for county taxes; and upon each dollar of valuation for the respective districts, as shown upon the assessment rolls of the county, including the assessment of motor vehicles as provided by the Motor Vehicle Ad Valorem Tax Law of 1958, Section 27-51-1 et seq.; except as to such values as shall be exempt, in whole or in part, from certain tax rates or levies. If the rate or levy for the county is an increase from the previous fiscal year, then the proposed rate or levy shall be advertised in accordance with Section 27-39-203 * * *. If the board of supervisors of any county shall not levy the county taxes and the district taxes at its regular September meeting, the board shall levy the same on or before September 15 at an adjourned or special meeting, or thereafter, provided, however, that if such levy be not made on or before the fifteenth day of September then the tax collector or Department of Revenue may issue road and

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bridge privilege tax license plates for motor vehicles as defined in the Motor Vehicle Ad Valorem Tax Law of 1958, Section 27-51-1 et seq., without collecting or requiring proof of payment of county ad valorem taxes, and may continue to so issue such plates until such levy is duly certified to him, and for twenty-four (24) hours thereafter.

Notwithstanding the requirements of this section, in the event the Department of Revenue orders the county to make an adjustment to the tax roll pursuant to Section 27-35-113, the county shall have a period of thirty (30) days from the date of the commission's final determination to adjust the millage in order to collect the same dollar amount of taxes as originally levied by the board.

In making the levy of taxes, the board of supervisors shall specify, in its order, the levy for each purpose, as follows:

(a) For general county purposes (current expense and maintenance taxes), as authorized by Section 27-39-303.

(b) For roads and bridges, as authorized by Section 27-39-305.

(c) For schools, including the countywide minimum education program levy and the levy for each school district including special municipal separate school districts, but not including other municipal separate school districts, and for an agricultural high school, county high school or junior college (current expense and maintenance taxes), as authorized by Chapter 57, Title 37, Mississippi Code of 1972, and any other applicable statute. The levy for schools shall apply to the assessed value of property in the respective school districts, including special municipal separate school districts, but not including other municipal separate school districts, and a distinct and separate levy shall be made for each school district, and the purpose for each levy shall be stated.

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(d) For road bonds and the interest thereon, separately for countywide bonds and for the bonds of each road district.

(e) For school bonds and the interest thereon, separately for countywide bonds and for the bonds of each school district.

(f) For countywide bonds, and the interest thereon, other than for road bonds and school bonds.

(g) For loans, notes or any other obligation, and the interest thereon, if permitted by the law.

(h) For any other purpose for which a levy is lawfully made.

The order shall state all of the purposes for which the general county levy is made, using the administrative items suggested by the State Department of Audit of Mississippi under the county budget law in its uniform system of accounts for counties, but the rate or levy for any item or purpose need not be shown; and if a countywide levy is made for any general or special purpose under the provisions of any law other than Section 27-39-303, each such levy shall be separately stated.

During the month of February of each year, if the order or resolution of the board of trustees of any school district of said county or partly in said county, is filed with it requesting the levying of ad valorem taxes for the support and maintenance of such school district for the following fiscal year, then the board of supervisors of every such county in the state shall notify, in writing, within thirty (30) days, the county superintendent of education of such county, the levy or levies it intends to make for the support and maintenance of such school districts of such county at its regular meeting in September following, and the county superintendent of education and the trustees of all such school districts shall be authorized to use such expressed intention of the board of supervisors in computing the support and

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maintenance budget or budgets of such school district or districts for the ensuing fiscal school year.

SECTION 4. Section 27-39-205, Mississippi Code of 1972, which provides the procedures prerequisite to increasing certain certified tax rates and the form and content of the public notice required for such increases, is repealed.

SECTION 5. This act shall take effect and be in force from and after July 1, 2012.

Mississippi Legislature
2012 Regular Session

Senate Bill 2912

Description: Mississippi Fair Commission; authorize to contract for advertising on buildings.

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

History of Actions:

- 1 02/20 (S) Referred To Agriculture
- 2 02/29 (S) Title Suff Do Pass
- 3 03/13 (S) Passed *Vote*
- 4 03/14 (S) Transmitted To House
- 5 03/19 (H) Referred To Agriculture
- 6 03/27 (H) Title Suff Do Pass
- 7 04/04 (H) Passed *Vote*
- 8 04/05 (H) Transmitted To Senate
- 9 04/10 (S) Enrolled Bill Signed
- 10 04/11 (H) Enrolled Bill Signed
- 11 04/17 Approved by Governor

Code Section: A 069-0005-0003

---- Additional Information ----

Senate Committee: Agriculture

House Committee: Agriculture

Principal Author: Fillingane

2012 GENERAL LAWS OF MISSISSIPPI, SB 2912

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2012

By: Senator(s) Fillingane

To: Agriculture

SENATE BILL NO. 2912

AN ACT TO AMEND SECTION 69-5-3, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI FAIR COMMISSION TO CONTRACT WITH COMMERCIAL, CHARITABLE, OR GOVERNMENTAL ENTITIES TO ADVERTISE THE ENTITY'S NAME IN CONNECTION WITH BUILDINGS ON THE STATE FAIRGROUNDS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 69-5-3, Mississippi Code of 1972, is amended as follows:

69-5-3. (1) The Mississippi Fair Commission shall set up rules and regulations consistent with the law governing the distribution of state monies for premiums or awards. It will be the duty of the commission to meet at the call of the chairman, at least twice each year, to approve premium lists or awards, and give out rules governing participants in state premium money in Mississippi. The commission may invite the presidents of the various district livestock shows before the commission when determining policies affecting district livestock shows.

(2) The Mississippi Fair Commission is hereby authorized to accept money or funds donated to or to be awarded as prizes under regulations promulgated by the commission.

(3) The Mississippi Fair Commission shall have charge of designated state lands and buildings, and have full power and authority in perfecting plans and causing to be held an agricultural and industrial exposition annually, and other events from time to time on those lands and located for the promotion of Mississippi agriculture and industry.

(4) The Mississippi Fair Commission is hereby authorized to employ an attorney as prescribed in Section 69-1-14.

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(5) The Mississippi Fair Commission may take any action authorized in Section 1 of Laws 2000, Chapter 306.

(6) The Mississippi Fair Commission may allow a commercial, charitable or governmental entity to use, publish and advertise such entity's name in connection with any of the buildings on the State Fairgrounds in Jackson, except for the Kirk Fordice Equine Center or any of the events conducted on the State Fairgrounds in return for a monetary consideration paid to the commission. Those funds received from an entity for allowing its name to be used, published or advertised in connection with the buildings or events shall be retained by the commission for capital improvements to the fairgrounds, except that not less than fifteen percent (15%) of such consideration shall be distributed annually to the Livestock Shows Fund that, by this subsection, is created in the State Treasury for premiums or awards in county, district and state livestock shows and the State High School Rodeo Finals. * * * Those funds received from an entity for allowing its name to be used, published or advertised in connection with the Dixie National Livestock Show and Rodeo shall be retained by the Fair Commission for capital improvements except One Hundred Thousand Dollars (\$100,000.00) may be used annually for advertising, promoting, premiums, awards and entertainment acts for the Dixie National Livestock Show and Rodeo. The commission shall not enter into any such agreement with any vendor whose products are illegal for participation in or use by persons eighteen (18) years of age and under.

(7) The Mississippi Fair Commission shall report by January 1 of each year a detailed financial statement of all monies received and expended under subsection (6) of this section to the Lieutenant Governor, the Speaker of the House of Representatives and the Chairman of the Senate Agriculture Committee and the Chairman of the House of Representatives Agriculture Committee.

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SECTION 2. This act shall take effect and be in force from and after its passage.

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